

p17 ref. 731

J A M A I C A

IN THE COURT OF APPEAL

H.M.C.A. No. 25/65

BEFORE: The Hon. Mr. Justice Duffus, President.
 The Hon. Mr. Justice Henriques
 The Hon. Mr. Justice Meedy (Acting)

JAMES BAKER .. Plaintiff/Appellant
 v.
LESLIE NELSON .. Defendant/Respondent.

Mr. H. Small for Plaintiff/Appellant.
Defendant/Respondent unrepresented.

2nd December, 1965

DUFFUS, P.:

This is an appeal against an award of damages by the learned Resident Magistrate for the parish of Manchester, in a case of slander. The plaintiff claimed the sum of £100 damages for slander, the defamatory words charged being - "You James Baker is a fucking thief; you thief my jack."

The allegation was that the plaintiff was charged with having committed a criminal offence, to wit, the offence of larceny, punishable by imprisonment. The learned Resident Magistrate after hearing the evidence for the plaintiff and for the defendant, accepted that the words had been used by the plaintiff, and he found that they were not mere vulgar abuse, and he awarded the sum of £2. 10/-, which he termed nominal damages in the circumstances.

On appeal, it has been submitted that an award of £2. 10/- was totally inadequate, and that the learned Resident Magistrate acted on wrong principles in arriving at this assessment of damages. The Court is in agreement that the learned Resident Magistrate erred when he awarded such a ridiculously small sum of £2. 10/- in the circumstances of this case.

The circumstances very briefly were that the defendant

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apparently had lost his jack. He went to a garage in the town of Mandeville and there he saw a jack which he thought was his jack. He claimed it as being his jack. The plaintiff who was present told him it was his, the plaintiff's jack, but if he (defendant) thought it was his, the defendant's, he could take it, thinking that the defendant was only speaking in fun, but to his surprise, the defendant really meant to take charge of the jack and thereupon used the slanderous words which I have already referred to, and then the defendant summoned the police and a police constable came to the garage, made investigations on the spot and then the Constable took both plaintiff and defendant to the Police Station along with the jack. The jack was detained there for about a month before it was returned to the plaintiff.

In these circumstances, it seems to us quite clear that the respondent in this case quite clearly and quite intentionally charged the plaintiff with being a thief, stealing his motor car jack, and apparently there was no justification whatever for his doing so. This Court will only interfere reluctantly in the award of damages in the Court below, but where it is satisfied that such award is inordinately low or inordinately high, it will interfere. In this case the Court considers that an award of £35 would have been more adequate in the circumstances.

The appeal therefore succeeds and the judgment in the Court below is varied. There will be judgment for the plaintiff for the sum of £35, with the costs which that amount will attract in the Court below and the costs of this appeal fixed at £12.

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