

THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

CV 2015 – 02719

Between

JEROME FRANK

1ST Claimant

GRIMSHA BALTHAZAR

2ND Claimant

And

THE ATTORNEY GENERAL OF TRINIDAD AND TOBAGO

Defendant

Before the Honourable Mr Justice Ronnie Boodoosingh

Appearances:

Mr. Aaron Seaton instructed Ms. Daffodil Maxwell for the Claimants

Mr. Stefan Jaikaran instructed by Ms. Nisa Simmons for the Defendant

Dated: 10 January, 2018

Judgment

1. The claimants seek damages for false imprisonment during the period August 9th 2011 to August 12th 2011.

Background

2. The first claimant, a scaffolding rigger, on August 9th 2011 left his home at Apartment 2-3, Building 51, Marjorie Street, Couva at around 12 pm to go to the Cash n Carry grocery which is located approximately half mile away from his house. He went to purchase items to prepare a meal for the children he was supervising.
3. Before leaving his home, the second claimant, also a scaffolding rigger, called to inform him that he was on his way to visit him. The claimants agreed to meet at Cash n Carry, where the first claimant would purchase his items, after which they would return to the home of the first claimant.
4. While at Cash n Carry both claimants were arrested. They were placed in separate vehicles. The first claimant was taken to the Marabella Police Station and the second claimant was taken to the St. Madeline Police Station.
5. They were interviewed relative to a murder and various robberies. On August 12th 2011, they were placed on two identification parades. They were not pointed out and so they were released later that day.
6. Officer Brian Sookdeo appeared as a witness on behalf of the defendant. His evidence was that information was received that a male suspect relative to a murder investigation was at the Cash n Carry grocery and that he was accompanied by two persons who were also wanted in connection with armed robberies in the Southern Division.

7. There is some dispute on the facts as to the manner in which they were arrested. Nonetheless I do not think these contested facts affect the true nature of the issue to be decided.

False Imprisonment

8. Lord Clarke in the case of **Ramsingh v Attorney General of Trinidad and Tobago [2012] UKPC 16** stated as follows:

“8. The relevant principles are not significantly in dispute and may be summarized as follows:

- i) The detention of a person is prima facie tortious and an infringement of section 4(a) of the Constitution of Trinidad and Tobago.
- ii) It is for the arrestor to justify the arrest.
- iii) A police officer may arrest a person if, with reasonable cause, he suspects that the person concerned has committed an arrestable offence.
- iv) Thus the officer must subjectively suspect that that person has committed such an offence.
- v) The officer’s belief must have been on reasonable grounds or, as some of the cases put it, there must have been reasonable and probable cause to make the arrest.
- vi) Any continued detention after arrest must also be justified by the detainer.

9. Further, Bereaux JA in the case of **CA No. P162 of 2015, The Attorney General of Trinidad and Tobago v Kevin Stewart** stated that in a case for false imprisonment, it falls to the arresting officer to show the existence of reasonable and probable cause for the arrest. He stated that:

“Once the prisoner proves that his liberty was restrained it is for the police officer to show justification”

10. The learned judge went on to express that where it becomes necessary to examine whether at the time of the arrest the police officer had reasonable and probable cause, **this would ordinarily include details of the information he obtained from sources and informants.**

11. Additionally, at paragraph 23, Bereaux JA added:

“A large part of PC Phillips’ Page 16 of 28 justification for arresting Stuart was “information received”, but the actual details of the information were never provided. As the judge rightly noted, it was not enough for PC Phillips to act on “information” without more. Details of what the information consisted of should have been led in evidence so that the court could assess whether that information provided a reasonable basis for arresting Stuart.”

12. The challenge in this particular case is that the evidence provided by the witnesses for the defendant, through their witness statements and also during cross examination, gave no details relative to the information they received before making the arrests. Police Inspector Brian Soodeen gave evidence that they received information that a murder suspect was at the grocery and that **he was accompanied by two persons who were also wanted in connection with armed robberies in the Southern Division.** This was all the details the court was provided with. With such sparse details, it is impossible to make an objective

assessment of whether the officers had reasonable and probable cause for making the arrests.

13. A police officer must treat information from informants with considerable reserve. However, depending on the nature of the sources and the quality of information, it can form the basis of reasonable suspicion both subjectively to the officer and objectively to the bystander.
14. The police officers have not justified the arrests. Further this court is not in a position to assess whether there was reasonable and probable cause to make the arrests. As such, in these circumstances I find that the arrests were unlawful, the defendant having not justified the detention of the claimants.
15. Second, as the learning from the Ramsingh case requires, any continued detention must be justified by the detainer. The Officers attempted to justify the continued detention by simply stating that the claimants were handed over to the relevant personnel to carry out further investigations.
16. After that they appeared to be questioned about a murder, and then about various robberies. Officer Ramkissoon gave evidence that on August 11th 2011, he questioned the first defendant relative to a robbery which took place on March 12th 2011. This interview took place two days after the initial arrest. The questioning was essentially to ask him about it and the first defendant denied being involved in. Both claimants assert that they were placed on two different identification parades but were not identified and then released.
17. The court is not seized of any evidence as to why the claimants were considered suspects in the range of matters for which they were interviewed. I therefore find that their continued detention was not justified. A person cannot just be arrested and then questioned randomly to determine whether they could properly be reckoned suspects in a range of matters, including a murder.

Damages

18. The claimants were detained from August 9th to August 12th 2011. I have considered the following authorities: **CV2015-01921 Ghany v Ramadhin and The Attorney General**, where the period of detention was 17 to 18 hours and \$45,000.00 was awarded; and **CV2015-04084 Boney v The Attorney General** where the period of detention was five (5) days and \$70,000.00 was awarded. The awards in those cases were not uplifted to reflect aggravated damages. Based on the authorities submitted to me, an appropriate award of damages in these circumstances is the sum of \$65,000.00 to be awarded to each claimant. Interest will run at 2.5% per annum from the date of the filing of the claim form to the date of judgment. There is no award of exemplary damages.
19. The claimants have claimed for loss of earnings for the days while they were imprisoned. They also submit that their imprisonment caused them to miss work for a couple days which then led to their loss of employment. They have also claimed for loss of earnings for the period of their unemployment. However, the claimants have not led sufficient evidence to prove that they suffered this loss. Though some pay-slips have been annexed, they fail to show the loss of earnings after the claimants were imprisoned. There is also insufficient evidence relative to the connection with the alleged loss of their jobs and the period of unemployment. There was also no evidence of the permanence of their employment. I am therefore unable to make an award for loss of earnings.
20. The defendant must pay each claimant his costs. Costs will be payable on the prescribed scale for the amount of damages and interest up to the date of judgment.

Ronnie Boodoosingh

Judge