

THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

CV2016-03367

BETWEEN

Prakash Mahabir

Claimant

V

The Attorney General of Trinidad and Tobago

Defendant

Before the Honourable Madam Justice Eleanor Donaldson-Honeywell

Delivered on: November 22, 2018

Appearances

Mr. Kevin Ratiram, Attorney at Law for the Claimant

Ms Niquelle Nelson-Granville and Ms. Laura Persad, Attorneys at Law for the Defendant

Oral Judgement

1. The elements that must be proven by the Claimant to establish that he suffered damage as a result of the Defendant's alleged tort of Malicious Prosecution are well established. Wooding J in **Wills v Voisin [1963] 6WIR 50** explained that the Claimant must show:

“(a) That the law was set in motion against him on a charge for a criminal offence;

(b) That he was acquitted of the charge or that otherwise it was determined in his favour;

(c) That the prosecutor set the law in motion without reasonable and probable cause; and

(d) That in so setting the law in motion the prosecutor was actuated by malice.”

2. In this matter the first two factors required for a finding of malicious prosecution were clearly established.
3. Firstly, there was a charge prosecuted against the claimant, namely that he drove motor vehicle PBK 5954 whilst under the influence of drink/drug to such an extent as to be incapable of having proper control of the said vehicle contrary to **Section 70(1) of the Motor Vehicle and Road Traffic Act Chap. 48:50**. The charge arose from an incident which, in his Statement of Case the Claimant says, took place around 9.30pm on April 24, 2011. He says he was found by two police officers off the roadway at Guaracara-Tabaquite Road, Reform and he made a report to them about having been involved in a road traffic accident.
4. Secondly, the prosecution of the charge ended in the Claimant’s favour when having in August 2012 overruled a no case submission and heard evidence from both sides, Magistrate Rehanna Hosein dismissed the charges on October 19, 2012. Her reasons were explained at page 5 line 37 to 6 line 12 of the transcript as follows-

“The evidence of the Prosecution is that they came upon you, seated in the driver’s seat, off the roadway and that when you came out the vehicle you were acting in a manner which led them to believe that you were under the influence stumbling, staggering, could not listen to instructions to take the Sobriety Test, et cetera.

Your evidence is that you came out of the car after the – there was a road traffic accident; you came out of the car.

Now, the Prosecution must prove all elements of the case, one, that, yes, that you were in fact the driver in this incident and that you, according to what Mr. Ratiram has shown here, that, yes, the vehicle, strictly speaking, must

be on a roadway because if you're parked in your garage and you're drunk, well, so be it.

The evidence is quite clear from the Prosecution that he was found off the roadway. I cannot come now and make assumption as to how the vehicle got there. It was just a quite easy thing to say – for the Prosecution to say in their evidence what was the report of the road traffic accident, that they had gotten there how much minutes before, so that there would have been a nexus to create to make out the case. But as it is, the Prosecution has not proven the elements of the offence and I find the defendant not guilty.”

5. In the Statement of Case the particulars of Malice were put under the same heading as the alleged lack of Reasonable and probable Cause. The basis for alleging Malice therefore appears to have been that the inference of Malice could be drawn from the lack of reasonable and probable cause.
6. The primary issues remaining to be determined therefore relate to whether the arresting officer had reasonable and probable cause. If the Claimant failed to establish this point there would be no need to further consider whether there was any Malice in the intentions of the arresting officer.

Reasonable and Probable Cause:

7. The Defendant's submission provides a summary of the relevant legislation and legal principles governing whether or not the arresting officer had reasonable and probable cause for the arrest.
8. Firstly, at paragraphs 9 to 17 of the Defendant's Skeleton Arguments the legislative provisions of section 3(4) of the **Criminal Law Act**, Chap 10: 04 ; Section 70(1) and (3) of the **Motor Vehicles and Road Traffic Act**, Chap 48:50 and Sections 45 (b),(c), (d) and 46 (1)(f) of the **Police Service Act**, Chap 15:01 are cited. These provisions provide the clear basis on which the arresting officer in this case had power to charge and prosecute the Claimant.

9. The legal principles relevant to the exercise of the authority to arrest/prosecute the Claimant and in particular whether or not it was a Malicious Prosecution are well established. The Defendant cited **Civ App. No 87 of 2004 Cecil Kennedy v Dona Morris WPC 11435 v The Attorney General of Trinidad and Tobago** and **Hicks v Faulkner [1881-85] All Er Rep 187**.

10. In the latter case, reasonable and probable cause was defined as:

“an honest belief in the guilt of the accused based upon a full conviction, founded upon reasonable grounds, of the existence of a state of circumstances, which, assuming them to be true, would reasonably lead any ordinarily prudent and cautious man, placed in the position of the accuser, to the conclusion that the person charged was probably guilty of the crime imputed...

.....The question of reasonable and probable cause depends in all cases not upon the actual existence, but upon the reasonable bona fide belief in the existence of such a state of things as would amount to a justification of the course pursued in making the accusation complained of. No matter whether the belief arises out of the recollection and memory of the accuser, or out of information furnished to him by another. It is not essential in any case that fact should be established proper and fit and admissible as evidence to be submitted to the jury upon an issue as to the actual guilt of the accused. ”

[Emphasis added]

11. It is clear from the foregoing that there is a subjective as well as an objective element to the test for reasonable and probable cause. The arresting officer/prosecutor must in fact have a subjective belief in the guilt of the Claimant but this belief must be based on objectively reasonable grounds.

12. Also of relevance is the Judgment of Madam Justice Dean-Armorer in the consolidated claims **CV2012-1842 and CV2012-1430 Randy Ramoutar and Joseph Balliram v The Attorney General of Trinidad and Tobago**. In that case it was explained that “the

prosecuting officer is not required to be satisfied of the guilt of the person to be prosecuted. Rather the officer is required only to be satisfied that there is a case to be tried.”

13. As it relates to the remaining element of the tort of malicious prosecution, namely whether there was no reasonable and probable cause for the charge, my findings turned on which of the divergent versions of events as to the facts present in the arresting officer’s mind I accepted as more probable.

14. The facts that the arresting officer needed to have in mind for the prosecution to have been based on reasonable and probable cause are all the elements of the offence charged. Section 70(1) under which he was charged, provides:

“Any person who, when driving or attempting to drive or when in charge of a motor vehicle on a road, is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle, is liable on first conviction to a fine of twelve thousand dollars and to imprisonment for three years and on any subsequent conviction to a fine of twenty-two thousand, five hundred dollars and to imprisonment for five years.”

15. Accordingly, the facts the arresting officer had to have present in his mind were that:

- a) the Claimant was driving or attempting to drive or in charge of a motor vehicle
- b) he was doing so on a road
- c) he was under the influence of drink or drug
- d) This influence was to such an extent as to render him incapable of having control of the vehicle.

16. There are certain undisputed facts that would have been on the arresting officer’s mind. It is undisputed that the arresting officer asked the Claimant whether he had been drinking and conducted a field sobriety test on him. Thus there can be no doubt that the officer had the suspicion that the Claimant was under the influence and wanted to check

to see whether this was so to the extent that he was incapable of controlling a vehicle. On the pleadings it is not in dispute that he was found with a vehicle, though he says he was standing outside it and the officers say he was sitting in it. It is not in dispute that he was driving it on the road at some point in time before that because he made a report about being in a road traffic accident.

17. Accordingly, the facts that the arresting officer had in mind were those usefully summarised at paragraph 29 of the Defendant's Skeleton Submission as follows:

- a) "The Claimant was driving along the Guaracara Tabaquite Road mere minutes before the police officers came upon him seated in his vehicle;
- b) The Claimant drank alcohol that night and was intoxicated to the point that he was unable to stand or speak properly and was unable to control his actions;
- c) The Claimant lost control of his vehicle and subsequently got into an accident."

18. On the Defendant's full version of events, the facts present in the arresting officer's mind at the time of the charge was that at around 9.15pm while on patrol in the area with another officer they saw a crowd gathered and two vehicles on the Southern side of the roadway. Both were damaged. The Claimant was seated in one i.e. PBK 5954. The officers approached him and asked if he was okay. He said he was. They identified themselves and he reported an accident to them. He said he was driving at around 9.00pm. He said he lost control of his vehicle while making a corner and then the other vehicle collided with his rear. They directed him to step out of the vehicle and observed that he was staggering, unable to stand without holding on to the vehicle, had red eyes and slurred speech. He smelled of alcohol. He produced his documents on request. Then he failed to follow instructions on a field sobriety test. He kept asking which hand when asked to raise his right foot and left hand. The arresting officer informed him of the opinion that he was under the influence of alcohol and incapable of driving safely or being in proper control of the vehicle. He was informed of the offence and cautioned. He responded "Officer ah drink a few beers." He was then arrested for the offence.

19. On the other hand, according to the Claimant, the Defendant could not have had all the relevant facts in mind for purposes of prosecution. This was so because there was no information that he gave evidence of having had on his mind at the time of the arrest as to the critical element of driving on the road. In fact this is the crux of the Claimant's case as set out at paragraph 6(i) of the Statement of case. It is put this way "*Despite coming upon the Claimant **off** the said road, he still charged him*".
20. Additionally, the Claimant's case is that the Defence is based on untruthful statements by the arresting officer and his witness. In particular the Claimant submits that the Defendant's case as to his being found seated in the car, his incapacitated appearance, failed sobriety test and admissions of drinking are all lies. Thus, there is a dispute as to whether, quite apart from finding the Claimant off road, the arresting officer had information on other surrounding facts that would support whether and when the Claimant had been on the road, in an incapacitated state, due to alcohol, prior to that time.

Determination

21. Having considered the pleadings, evidence and submissions herein I have concluded that although the officer found the Claimant seated in his car off road, there was sufficient information he gathered at that time that led him to believe that the Claimant had been driving on the road a few minutes before.
22. There is no dispute that the arresting officer suspected that the Claimant had been drinking. That this possibility was on his mind is clear from the fact that he asked him whether he had been drinking and conducted a field sobriety test. As will be further explained, I found the Defence witnesses to be truthful as to the Claimant having admitted he was drinking beers and that he appeared to be under the influence. The Claimant's denial of this admission about the beers was discredited by his inconsistent answers given on the first day he appeared before the Magistrates court in April 2011.
23. The arresting officer had all the information he needed at the time of arrest to support his subjective view and also objectively to provide a basis for charging the Claimant with the offence. He documented everything, including the time the Claimant said he was

driving, in the station diary the day after the incident. However, when the matter was eventually heard by the Magistrate a year later he omitted some relevant details. He omitted to say that the Claimant told him **he had been driving at 9 pm**. That was the time when he lost control of his vehicle while turning, thereafter being involved in an accident and pushed off the road.

24. Although another witness supplied the information that the police came only 3 to 5 minutes after the accident, thereby tending to support that the Claimant had just stopped driving when the officers came, the Magistrate had sufficient doubt in her mind not to convict the Claimant of the offence. She suggested that what was required was a witness to have been brought to say he saw the Claimant driving and to give the time.
25. In my view the fact that the Magistrate was not convinced enough by what she heard, to say that beyond reasonable doubt the Claimant was guilty, does not mean that the arresting officer did not have reasonable grounds to arrest him. This is so firstly, because the Officer omitted some of the contemporaneously documented information he had on his mind in testifying before her. Secondly, in these proceedings he has shown that there was sufficient evidence available to him to form a belief that the Claimant had been on the road driving a short time before he was found off road under the influence of alcohol. Thus even if it may not have been an iron clad case of guilt that was eventually presented to the Magistrate, the officer had enough to see it as a case to be tried when he charged the Claimant. Accordingly, there was no malicious prosecution. These findings are further explained hereafter.

Findings on the Evidence

26. In determining questions of fact the Court is guided by the learning in the Privy Council decision of **Horace Reid v Dowling Charles and Percival Bain App No. 36 of 1987** which laid down guidelines to be followed by the trial judge in assessing the credibility of evidence where there is actual conflict.

27. The Board said that the trial judge must check the impression that the evidence of the witnesses makes upon him against-
- (i) Contemporary documents, where they exist;
 - (ii) The pleaded case; and
 - (iii) The inherent probability or improbability of the rival contentions.
28. Additionally, in **Attorney General of Trinidad and Tobago v Anino Garcia Civ Appeal 86 of 2011** it was underscored that in determining the credibility of witnesses, the Court is entitled to draw negative inferences where there is a conflict of facts on the pleadings; where there are discrepancies between the pleaded case and the witness statements and any admissions made by a witness during cross-examination.
29. These principles have guided my review of the evidence and findings herein. Before the Trial started I considered the inconsistencies and any admissions in evidence presented by the parties.
30. As it relates to the Defence this required a comparative analysis of the information in the Station Diary entry written by the arresting officer just after the incident on the 24th April, 2011, the Prosecutors factual submission at the Magistrate's Court on 26th April, 2011, the evidence of the arresting officer and his supporting witness PC Dhansingh at the Magistrate's Court Trial on August 7, 2012 and the evidence written in the Witness Statement filed by both officers for the instant proceedings.
31. The entry in the Station Diary and statement of facts read out by the prosecutor before his Honour Magistrate Rambachan on the first day at Court included all the points pleaded herein regarding what the arresting officer had on his mind at the time of arrest. This included that the Claimant was found at 9 15pm and said he had been driving at 9pm when he lost control and got into an accident.

32. At the trial on August 7, 2012 the arresting officer gave consistent testimony save that he omitted to say what time the Claimant told him the accident in which the Claimant said he was the driver took place. His supporting witness PC Dhansigh corroborated every aspect of the arresting officer's account save that he said at the time he could not recall what response the Claimant gave i.e. the utterances given under caution.
33. Additionally, it was at the Magistrate's Court Trial that the arresting officer and his supporting witness spoke for the first time of having attempted to get a breathalyser test done on the Claimant who had agreed to same. He admitted then that this attempt was omitted from his statement.
34. The Witness Statement filed by the arresting officer PC Nanan was true to his Station Diary entry in all respects. At paragraph 6 he included the information as to driving the vehicle and losing control of it at 9pm, the timing of which he left out at the Magistrate's court hearing. He and his supporting officer also included information about the attempts to get a breathalyser test and the fact that after the Claimant was arrested the other driver came in and gave a report confirming that the Claimant was driving when the collision took place.
35. It was clear that these added bits of information could have formed no part of the information in the mind of the officer at the time of the arrest. In fact the Claimant was not charged under the Section of the Motor Vehicle and Road Traffic Act that required a Breathalyser test to be administered. The information in PC Nanan's Witness Statement about attempts to get a breath test done and about not following up on the other driver went only to his credibility and whether there was any malice.
36. Counsel for the Claimant submitted that the omission of a note of these efforts from the Station Diary as well as an omission to mention that he had requested a statement from the Claimant should be treated as evidence of the untruthfulness of PC Nanan. Furthermore, Counsel contended that since the Claimant was not asked by PC Nanan to put his signature next to the Station Diary entry the adverse inference should be drawn

that the particulars therein were not true. In other words the Court was asked to find that PC Nanan fabricated the evidence in his witness statement.

37. I make no such finding as I accept as reasonable the explanation given by PC Nanan that these omissions were due to a shortcoming on his part. This was his reason for not making a Station Diary note of certain details that were non-essential to the charge. The inclusion of such information may or may not have strengthened the chances of a conviction. For completeness it could have been included in the Station Diary entry. However, neither the omitted information nor a signature of the Claimant to the Station Diary was required for purposes of charging the Claimant. PC Nanan appears not to have been doggedly seeking to ensure he had an iron clad case against the Claimant but I draw no adverse inferences from these omissions.
38. PC Dhansingh at paragraph 9 of his witness statement gave evidence of the Claimant's utterances regarding having had beers to drink. This was different from but not inconsistent with his testimony at the Magistrate's Court where he said he could not recall those words at that time.
39. In reviewing the Pre-Trial evidence of the Claimant I considered the inconsistencies between the responses he gave to the Magistrate on April 26, 2011, his testimony on August 7, 2012 and his written evidence in chief for these proceedings in his Witness Statement.
40. When the Claimant first appeared in the Magistrates Court much of what he said was at odds with the evidence he eventually presented at his trial. After hearing the charge read to him he pleaded guilty. When the facts relied upon were read out the Claimant was asked whether the account was accurate. In response he denied staggering but admitted that he "had only two beers". He mentioned coming out of his car and going to see whether the other driver was okay but did not say whether this was before or after the police came on the scene.

41. When asked whether he was not drunk to the point of being unable to control his vehicle he said "Not to say extensively". He said he "have capable control of the vehicle".
42. The Magistrate then determined that there were "facts denied" and set the matter for Trial. The Claimant then asked whether he could plead guilty and be discharged. The Magistrate declined saying he would only do so if he admitted to not having control of the vehicle.
43. On review of these notes I formed the impression that the Claimant admitted having drinks and all other aspects of the case stated by the prosecution save that he was not "extensively" incapable of driving due to being under the influence of alcohol.
44. A year later, at the Trial on August 7, 2012, his evidence in chief was that he was standing outside by the road when the officers came and he never told them he was drinking a few beers. Under cross examination at the Magistrate's Court several probing questions were put to the Claimant seeking to establish that he had been driving the vehicle. His responses gave detailed confirmation that he was driving the vehicle when the accident occurred. He was not asked questions to pinpoint the time when he was driving.
45. There was a second witness called to support the Claimant at the Magistrates Court Trial. Mr. Dirk Baldeosingh was that witness. As a bystander on the night of the incident he testified under cross-examination that the officers came on the scene around 3 to 5 minutes after the accident occurred. He confirmed that the officers were on patrol in the area and would have seen everything so they came across.
46. Having read the transcript of the first day the Claimant appeared at the Magistrate's Court and his Trial there, what struck me most as adversely affecting his credibility when I read his Witness Statement was the extent of information that was omitted. He selectively included only facts that were not harmful to his case. In fact while he attached the Trial Transcript to his Pleadings and Witness Statement, the Transcript of the first day, April 26, 2011, on which occasion he pleaded guilty and made certain admissions, was not attached. I had to look to the Defendant's pleadings to see those notes disclosed.

47. At Paragraph 10 of his Witness Statement he mentioned appearing at Court on April 26, 2011 but gave no details of what happened then.
48. At Paragraph 3 of the Witness Statement the Claimant says he came out of the vehicle after the accident to check on the other driver but that he went back to his own vehicle. He says while by his own vehicle the officers came to him but he was standing not sitting. As in the Magistrates Court he claimed to have denied drinking when asked and he said he had no problem with the field sobriety test directions given to him.
49. At paragraphs 11 to 13 the Claimant gave an account of the proceedings at his Magistrates Court Trial but he omitted all of the evidence he gave then regarding him being the driver of the vehicle and how the vehicle reached the off road position.
50. The omissions from the Claimant's Witness Statement affected his credibility adversely and gave fertile ground for cross-examination in the instant proceedings. At the Trial the Claimant continued to present himself as a person who was less than forthcoming with relevant details. He was unable to give a convincing answer as to why the transcript showed that he admitted to drinking two beers. He claimed that what he was really saying then was that the officers were telling him he had two beers. He accounted for the transcript not saying that by suggesting that it was because he spoke quickly.
51. This answer defied logic since it failed to take into account the other details in the transcript. Those details tended to show that his general stance was of admitting that he had been drinking. His only point at that time was that he was not "extensively" under the influence of alcohol. He wanted to plead guilty but was persuaded not to do so on the basis that although he may have been drinking he was denying the fact of being incapable of controlling the vehicle.
52. In Closing Submissions Counsel for the Claimant speculated on another reason that could have explained the Claimant's admissions at the Trial. He said that the Claimant may have just wanted to get the matter over and done with. There was no evidence from the

Claimant on that and in fact that position was diametrically opposed to what the Claimant said in Court. In any event if the submission made by Counsel is correct, that would further adversely affect the credibility of the Claimant. This is so because it would mean that he was prepared to concoct a story about having had beers to drink so as to prove himself guilty. That goes beyond what a reasonable person would be expected to do to just get over with a criminal charge. It is more probable that the Claimant did admit to drinking beers and he did so because he was telling the Magistrate the truth.

53. Under cross-examination the Claimant sought to embellish his claim that he was standing when the officers came, by saying that he was nowhere near his vehicle. At the Magistrates Court he had merely said he was by the road but the testimony during these proceedings differed from his pleadings and witness statement where he said he was by his vehicle.
54. Under cross-examination the Claimant did give some answers which supported the Defendant's case. In fact he confirmed that he was driving on the road before the accident and that the accident happened 3 to 5 minutes before the police officers came on the scene. When questioned as to how his Statement of Case said they came at 9:30pm he said that was incorrect; the officers came very soon after the accident. This was in line with the Defendant's case that the Claimant told the officer that he was driving on the road at 9pm when the accident took place and that the officers came at around 9:15pm.
55. By contrast with the Claimant the Defendant's main witness PC Nanan, the arresting officer presented as very professional, transparent and cooperative. My impression was that he was simply doing his job on the night of the incident and believed that the Claimant was incapable of driving due to being under the influence of alcohol.
56. Under cross-examination he answered questions about the evidence that was identified by the Magistrate as missing from the Magistrates Court Trial, namely evidence of someone who saw the Claimant driving. PC Nanan explained that the other driver in the accident, one Jason Singh could have given such evidence but he was not interviewed

because he was hospitalised that night. The officer said he did not try to contact Mr. Singh by telephone.

57. This in my view supported my impression of the Officer as not a person aggressively pressing to convict the Claimant. He carried out his duty. Once he had sufficient information he charged the Claimant. He didn't wait for the case to be made iron clad by pursuing this witness.
58. In any event the evidence of the other driver involved in the accident that he saw the Claimant driving on the road was not necessary for purposes of simply charging the Claimant. This is so because PC Nanan had already been told by the Claimant himself that he was driving on the road at 9pm, which was just before PC Nanan spoke with him. Jason Singh did come in the next day to give a statement but the Claimant was already charged by then.
59. PC Nanan's testimony was true to his earlier testimony several years before at the Magistrates court save for difficulty remembering the sequence of events. One aspect of that sequence highlighted by Counsel for the Claimant in cross-examination and in oral closing submissions was in relation to the retrieval of the documents from the vehicle by the Claimant to give to PC Nanan. PC Nanan under cross-examination was not clear as to at what point this was done whereas the Claimant was saying that he was standing and went into the vehicle for the documents. The appearance of the Claimant while doing so was something Counsel for the Claimant suggested should have been observed by PC Nanan. He asked that adverse inferences be drawn from the fact that no entry was made recording whether the Claimant had any difficulty with that task.
60. In my view such a detail is not one that necessarily would have been observed by PC Nanan, particularly as he did not admit that the Claimant was standing and entered the vehicle for the documents. Overall PC Nanan maintained that all of the events noted by him in the Station Diary and set out in his Witness Statement as preceding the arrest led him to believe that the Claimant had in fact committed the offence he charged him with.

61. My impression of the Defendant's second witness though, was that he had no real personal recollection of the incident some seven years ago. However, he had read the documents disclosed by the parties for these proceedings and refreshed his memory. He was not discredited but his evidence did not add to or reinforce that of the main witness, Arresting Officer PC Nanan.

Conclusion

62. My conclusion is that any reasonable person possessed of the information operating in the mind of PC Nanan at the time of the arrest would have believed that there was a case to be tried against the Claimant regarding the offence for which he was charged. All the circumstances of the incident as it unfolded, including the Claimant's admission that he had two beers and that while driving at 9pm he was in an accident after losing control of his vehicle which was pushed off the road to the point where the police officers met him a few minutes later, would lead any fairly cautious man in the position of PC Nanan to believe that he had committed the offence.

63. The critical factor of a lack of reasonable and probable cause for arrest was not established by the Claimant. There is no need therefore to consider whether the arrest and prosecution were actuated by malice. Even on that count however, my clear impression is that by his actions PC Nanan showed that there was no malice on his part. He was simply doing his job to ensure that a crime that endangered the lives of other road users was appropriately brought to justice.

64. Some aspects of his actions that revealed his lack of malice include those set out at paragraph 47 of the Defendant's Skeleton as follows:

"a) The Claimant himself admitted during cross examination that he was not even handcuffed when he was arrested by Corporal Nanan;

b) Before he was charged, the Claimant was informed by Corporal Nanan that he wanted to conduct a Breathalyser test on him, which fact is admitted by the Claimant, and efforts were made by the said officer to contact a Breathalyzer technician for that purpose. He confirmed in cross-examination

that he called about 5 police stations in his attempt to source a Breathalyzer technician.

c) Notwithstanding the fact that it was the Easter weekend and that the Sunday and Monday were public holidays, the Claimant was granted bail at the police station on the 25th April 2011 which was Easter Monday;

d) The Claimant confirmed during cross-examination that a Justice of the Peace came to the police station to grant him bail which suggests that one had to be called to the police station by the police officers on the public holiday."

65. The Claim is dismissed. The Claimant is to pay the costs of the Defendant in the amount of \$14,000.00.

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Eleanor Joye Donaldson-Honeywell
Judge

Assisted by: Christie Borely JRC 1