

THE REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE HIGH COURT OF JUSTICE
San Fernando**

Claim No. CV2016-01629

BETWEEN

REYNOLD RICARDO BAHADOOR

Claimant

AND

SUNSHINE PUBLISHING COMPANY LIMITED

Defendant

Before the Honourable Mme. Justice Jacqueline Wilson

Date of Delivery: October 26, 2018

APPEARANCES:

Mr. Alvin Pariagsingh, Mr. Jared Jagroo and Ms. Chelsea Stewart Attorneys at Law
for the Claimant

The Defendant not appearing and unrepresented

DECISION ON DAMAGES

1. The Claimant, a Police Corporal, seeks damages for defamatory statements published in a newspaper article by the Defendant on 18 December 2015. The article bore the headline "*Rogue Cops Exposed!*" and made allegations that a ring of police officers, of which the Claimant formed part, was extorting money from women who had received

compensation for the acquisition of their lands to facilitate the construction of a highway.

2. The article made detailed allegations of the Claimant's direct involvement in the corrupt practice, as appear from the following extracts:

"A Police ring in Deep South had been robbing old women, single women and even married women, destroying their marriages in the process.

These police officers are tipped off from inside NIDCO when payments have been made by NIDCO to these women for their lands which have been taken over for the construction of the new Point Fortin to San Fernando Highway and these police officers, then reportedly force the women to give them their money by all forms of threats, subterfuge and at times even licks.

Heading this ring of corrupt police officers is one Police Constable Reynold Ricardo Bahadur who is also a taxi driver when he is off duty. At times he is aided and abetted by his partners in crime PC Balkissoon and PC Phillip Pedro.

The first two named officers are attached to the TTPS Canine Unit in Chagauramas, while PC Pedro is attached to the Child Protection Unit. Bahadur has been accused of brandishing his firearm in the face of one of the women in a very menacing manner.

The Police ring headed by Bahadur seeks out women who have received compensation from NIDCO and who are vulnerable, forcing them in some cases to leave their husbands and to give up part of the payment they have received as compensation.

The signed statement from one of victims against Bahadoor is that “he tried to get control of my relocation compensation money from the highway route; he would come to my house and force himself on me with threats and violence and he told me that he and his brother have killed people.

He boasts about the double murder his brother gang committed on Batchia Main Road in Penal and that they have a gang that could kill people who giving trouble.

He boasts about the things he would find and keep when he go on raids such as guns, ammunitions, drugs, money.

He told me that he found a small revolver and that he keeps it hidden in his pocket and that he took it home and that he keeps it at the back of his house by the fig tree. I knew that in this police officer I was dealing with a criminal. I feared for my life and the life of my family. I followed his dictates I had no choice.

I could not report him to the police because he told me that he can victimize the victim so no one would believe them

and no one would believe me. He said that I can't try to leave him because I would be just another missing person that he work in the hills and valley of the Northern Range and he knows that he knows the area well and he would dismember my body in parts, and dispose of my parts so that no one would find my parts and I would be just another missing person."

"No one will find me and no one will miss me. He even told me that he beat Nishi a woman that work at CID. He told me that he beat her when she confronted him, he said he beat her, she fell to the ground and he kicked her with his boots. He beat her to a pulp. I was always scared knowing all he said and is capable of doing. I had no choice but to follow his rules..."

The frightened and visibly shaken woman who lives in Penal, came to the Sunshine offices for help since she did not know to whom she can turn. She said that on June 16th 2014 Bahadur demanded that she go to the FCB Branch in Penal and with draw \$12,000.00 in cash and \$60,000.00 in a bank draft. Initially she had refused and Bahadur forcibly accompanied her to the bank and earned her that he had a gun on him and told her of the consequences which will befall her if she refuses.

She had no choice and withdrew the money and the bank draft from her account at the bank. He then collected the

money from her and took her in his car “to a place in Clarke Road where he forced me to have sex with him.”

He told her that she is to “tell no one that I took \$12,000.00 from you nobody will believe you because you have no proof.

If you tell anyone about the \$60,000.00 you are dead. I have my people on standby just waiting for a call and you will be dead.

The victim reported that Bahadur then forced her to buy his gray Nissan Cefiro PBO 8680 at an inflated price and she had to pay him in both TTD and USD. “I was physically and mentally abused and had to go to one Dr. Samuel Joseph of Erin who advised me that I should not take that treatment so I spoke to Bahadur’s mother, his brother and a woman he is living with in Scott Road Penal.

I also sent letters to local and foreign organisations. I wrote letters to all these people in an effort to keep him away from me.

I also delivered letters to his job and the officer in charge of the K-9 unit. In an effort to get rid of him I told him about my uncle wife from Scott Road Penal. My uncle is deceased and left his wife a lot of wealth and he went and started a relationship with my uncle wife.

The victim pleaded with the Sunshine to assist her whereupon we immediately contacted the Head of the Police Professional Standards Bureau, ACP Deodath Dulalchan who acted promptly and assigned one of his officers to conduct the necessary investigation.

At the time of publishing Sunshine has been advised by the victim that no one has contacted her and though she knows that her life will now be in danger that she prepared to face the consequences in an effort to save other women from a life of torture and greed at the hands of police officers.

"I expect the police to kill me but I am prepared to die."

Efforts to contact Police Officers Bahadoor and Balkissoon up to press time have proven futile."

3. The Claimant alleges that the words used in the article, in their natural and ordinary meaning, were understood to mean that the Claimant was corrupt, was a rapist, was unfit to be a police officer, abused his office for private gain and was guilty of misbehaviour in public office.
4. The Claimant alleges that the article referred to him by name, notwithstanding that the names "Bahador" and "Bahadur" were used interchangeably throughout the article. He states further that his photograph was prominently affixed to the article together with a letter purporting to be from First Citizens Bank bearing his name.

5. The Claimant seeks damages, including aggravated and exemplary damages, for libel.
6. The Defendant did not appear at the hearing. Therefore the matter proceeded as an undefended claim. In the absence of evidence by the Defendant the allegations made against the Claimant in the article remained unproven and the defence of justification and qualified privilege put forward by the Defendant was not established.
7. At the end of the hearing I gave the decision that the words used in the article were defamatory in that they ascribed both criminal conduct and professional misconduct to the Claimant and had the effect of lowering him in the estimation of the public. The decision the assessment on damages was reserved and is now given.

ASSESSMENT OF DAMAGES

8. As a general proposition, in cases of libel a Claimant need not prove actual damage as the law presumes that some damage will flow in the ordinary course of things from the mere invasion of his absolute right to reputation.¹
9. In *Reynolds v Times Newspapers Ltd and Others* [1999] UKHL 45, Lord Nicholls of Birkenhead held that:

“Reputation is an integral and important part of the dignity of the individual. It also forms the basis of many decisions in a democratic society which are fundamental to its well-

¹ Gately on Libel and Slander, 12 ed., para 32.51 to 32.57

being: whom to employ or work for, whom to promote, whom to do business with or to vote for. Once besmirched by an unfounded allegation in a national newspaper, a reputation can be damaged for ever, especially if there is no opportunity to vindicate one's reputation. When this happens, society as well as the individual is the loser. For it should not be supposed that protection of reputation is a matter of importance only to the affected individual and his family. Protection of reputation is conducive to the public good.

10. Although the above dictum was expressed in relation to the holders of political office, it is of general application.
11. The factors for consideration in the assessment of damages for defamation have been summarised as follows: ***John v MGN (1997) QB 586***

“The successful plaintiff in a defamation action is entitled to recover, as general compensatory damages, such sum as will compensate him for the wrong he has suffered. That sum must compensate him for the damage to his reputation; vindicate his good name; and take account for the distress, hurt and humiliation which the defamatory publication has caused. In assessing the appropriate damages for injury to reputation, the most important factor is the gravity of the libel; the more closely it touched the plaintiff's personal integrity, professional reputation, honour, courage, loyalty and the core attributes of his personality, the more serious it is likely to be. The extent of the publication is also very

relevant: a libel published to millions has greater potential to cause damage than a libel published to a handful of people.”

12. In ***Gatley on Libel and Slander*** the authors state that in seeking an award of aggravated damages, a Claimant may rely upon the Defendant’s conduct and conduct of the case as aggravating factors causing injury to him:

“It is very well established that in cases where the damages are at large the jury (or the judge if the award is left to him) can take into account the motives and conduct of the defendant where they aggravate the injury done to the plaintiff... The conduct of a defendant which may often be regarded as aggravating the injury to the plaintiff’s feelings, so as to support a claim for ‘aggravated’ damages includes a failure to make any or any sufficient apology and withdrawal.”²

13. Counsel for the Claimant identified the following factors as relevant in arriving at an appropriate award:

- (i) The Claimant was a serving member of the Trinidad and Tobago police service for the past twenty-one years;
- (ii) The Claimant has never had a criminal or disciplinary charge brought against him;
- (iii) As far as the Claimant is aware, he has never been the subject of any criminal investigation; and
- (iv) The Claimant is married and has two sons who were aged 17 and 14 at the time of the publication.

² 12 edn., paragraph 9.18

14. Counsel for the Claimant submitted that an award of aggravated damages was appropriate in the circumstances of this case having regard, in particular, to the following:

- (i) There was no attempt by the Defendant to contact the Claimant notwithstanding the severity and/or gravity of the allegations made against him as a police officer;
- (ii) The article did not contain the name of the author and therefore denied the Claimant of the right to know his accuser;
- (iii) The Defendant sought to maximise the reach of the article by publishing a copy of the newspaper including the article on its Facebook page;
- (iv) Persons made adverse comments, drew adverse inferences and vilified the Claimant as a result of the said article; and
- (v) As a police officer, the Claimant is expected to uphold the highest levels of integrity and ethics and to reflect the trust and confidence placed in him. His character was brought into disrepute by the article, without justification.

15. Counsel for the Claimant relied on an extensive list of authorities as guidance on past awards. These included, but were not limited to, the following:

- ***TnT News Centre v John Rahael Civ App No. 166 of 2006*** (delivered 9 July 2009). The Court of Appeal awarded general damages in the sum of \$250,000.00 to the Claimant, the then Minister of Health and Member of Parliament, in respect of allegations that he was involved in

the drug trade. The Court of Appeal reduced the trial court's award of \$400,000.00 as there was no direct evidence of the full extent of injury to the Claimant's feelings by the widespread publication of the libel.

- ***Trinidad Express Newspaper Ltd. & Ors v Conrad Aleong Civ App No. 122 of 2009*** (delivered 25 June 2014). The Claimant was awarded \$650,000.00 in general damages and \$200,000.00 in exemplary damages. The court held that the publication of a series of articles over a 5-week period conveyed to the reasonable reader that the Claimant, the then President and Chief Executive Officer of the former BWIA (West Indies) Ltd., was guilty of deception and had manipulated the airline's accounts for private gain.
- ***Robin Montano v Harry Harnarine & Ors CV2008-03039*** (delivered 22 March 2012). The defamatory implication that the Claimant, a senior attorney-at-law and well-known public figure, was a racist and hypocrite attracted an award of \$250,000.00 in general damages. There was evidence of a direct impact on the Claimant's legal practice.
- ***Nizam Mohammed v Trinidad Express Newspaper Ltd & Ors CV2011-00264*** (delivered 19 July 2013). The defamatory publication alleged that the Claimant, a senior attorney-at-law and former Chairman of the Public Service Commission, had been referred to the Disciplinary Committee of the Law Association which made an order against him. The publication was held to impute

incompetence, dishonesty and lack of professional ethics on the part of the Claimant. The Claimant was awarded \$325,000.00 in general damages, inclusive of aggravated damages.

- ***Faiiq Mohammed v Jack Warner CV2013-04726*** (delivered on 24 July 2014). The Claimant, a Local Government Councillor, was awarded general damages in the sum of \$200,000.00 including aggravated damages, in respect of allegations that he was corrupt, had accepted bribes and “had sold his soul for money.” Exemplary damages of \$20,000.00 were awarded based on the court’s findings of the high-handed and oppressive nature of the attacks by the Defendant.
- ***Rajnie Ramlakhan v Trinidad and Tobago News Centre Limited and anor. HCA S- 634 of 1999*** (delivered on 29 May 2009). The court awarded \$700,000.00 in damages, inclusive of aggravated damages, to compensate the Plaintiff for the distress, hurt, humiliation and injury to reputation suffered as a result of newspaper articles labelling him as racist.
- ***Dr Keith Rowley v Michael Annisette CV2010-04929*** (delivered 12 February 2014). The court awarded \$475,000.00 in damages, inclusive of aggravated damages, for defamatory statements that suggested the Claimant had engaged in corrupt activity, committed perjury and was guilty of misbehaviour in public office.

- ***Jwala Rambarran v Lester Henry Claim No. CV2014-03990*** (delivered on 28 September 2017). The Court awarded the sum of \$550,000.00 in general damages, inclusive of aggravated damages, for defamatory statements made by the Defendant, an opposition Senator, suggesting that the Claimant, the then Governor of the Central Bank, was politically motivated, was corrupt and had used millions of taxpayers' dollars to renovate and improve his private home.
- ***Ricardo Welch v P.B.C.T Limited & Ors CV2011-00751*** (delivered on 25 April 2017). The Claimant, a well-known media personality, was awarded damages in the sum of \$700,000.00 in respect of homosexual connotations and allegations of extortion against a major political party and the public purse.
- ***Seebalack Singh v Trinidad Express Newspapers Limited & Ors CV 2013-04366 (delivered on 12 May 2016)***. The Claimant, the former Chief Executive Officer of the Estate Management Business Development Company (EMBDC) was awarded \$450,000.00 in damages, inclusive of aggravated damages, for libel arising from the publication of two investigative articles, the first of which bore the headline "Contractor sues EMBDC for millions" and the second of which bore the headline "22m payment for shoddy work." The articles were understood to mean that the Claimant had engaged in illegal activities, did not carry out his duties in a professional manner, was guilty of acts of

corruption and dishonesty and had resigned his post because of dishonesty and/ or misconduct. An award of exemplary damages in the sum of \$100,000.00 was also granted.

DECISION

16. Allegations of criminal conduct and personal corruption are among the most serious charges that could be made against a police officer whose primary responsibility it is to detect crime and bring offenders to justice.
17. The article in question made serious and damaging allegations that the Claimant was guilty of rape, murder, extortion and corruption. The nature of the allegations is such that the distress, hurt and humiliation suffered by the Claimant would be significant. The article was also published on the internet, a distinctive feature of which is its virtually unlimited outreach. These factors weigh heavily in the determination of an appropriate award to the Claimant.
18. The authorities provided by Counsel for the Claimant show a range of awards varying from \$200,000.00 to \$700,000.00. The divergent awards reflect the case-specific approach to the exercise of striking an appropriate balance between the right to freedom of expression and the right of an individual to protect his reputation.
19. While the Claimant must be compensated for the enduring impact of the allegations on him in both his personal and professional capacity, the Claimant has himself confirmed that no criminal investigation or

disciplinary proceedings were instituted against him, or threatened, as a result of the publication.

20. In all the circumstances, I am of the view that an award in the sum of \$350,000.00, inclusive of aggravated damages, is appropriate.
21. The Defendant shall pay the Claimant's prescribed costs in the sum of \$56,500.00.

Jacqueline Wilson

Judge