



time schedule. The Defendant denies that he ever used the words which were alleged to have been said by him and he denies that he defamed or assaulted the Plaintiff in anyway.

3

The Defendant and his witness were not altogether consistent in the evidence they gave and there are significant discrepancies particularly as to the Defendant's movements on the morning of the event. The Defendant maintains that on that morning he saw the Plaintiff in Mbabane before the Plaintiff and his colleagues went out to the inspection point. The Defendant maintains that the Plaintiff was at the offices of the Department and there tried to solicit a bribe from the Defendant. In this he is contradicted by his witness who testifies that both he and the Defendant were elsewhere at the relevant time.

There is an implied suggestion that this present action is somehow connected with that other incident which is supposed to have taken place in the Department offices in Mbabane.

I accept the Plaintiff's version not only because the evidence of the Plaintiff and his witnesses was more cogent than that of the Defendant and his witness but also because the Plaintiff account is inherently more probable.

An important issue in the case was whether Mavuso had given a ticket to the Defendant's bus driver.

This mistaken issue of a ticket is said by the Defendant to be the cause of the spill-over of ill feeling on that day. Mavuso who seemed to be an independent witness denied that he had issued the ticket.

The Defendant did not call the bus driver to whom the ticket was supposedly issued and no evidence has been led of any record of a ticket having been issued.

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One would have expected that the defendant in presenting his case would have called the bus driver or at least subpoenaed the records of the tickets issued at the relevant time. That he has not done so justifies an inference that such evidence would not have advanced the Defendant's case.

I find as a fact that the Defendant did defame the Plaintiff in the presence of a number of people including passengers in the buses which had been stopped at the inspection site and the Plaintiff's colleagues at the inspection point. The defamation lies in the use of words spoken loudly and publicly as alleged in the summons.

The seriousness of the defamation has been demonstrated and is certainly grossly demeaning for an inspector whether he is a Policeman or not to be accused publicly of taking bribes and being in the pay of one of the bus operators.

There has been no attempt at an apology. It is not suggested that the words were uttered in anger although it seems that they were. There is no question but that the intention of the Defendant was to injure the Applicant in his reputation publicly.

The Defendant's behaviour is aggravated by the baseless suggestion gratuitously made that the Plaintiff had acted improperly that very morning in demanding money from the Defendant. This imputation of dishonesty is closely related to the defamatory words used by the Defendant of the Plaintiff.

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The Plaintiff's claim for E20 000 exceeds any amount which has either to be awarded in comparable cases. Defendant's malice, his unrepentant and uncompromising attitude justify a substantial award for what after all is a serious defamation of the Plaintiff loudly spoken before a group of concerned spectators.

There will accordingly be judgment in favour of the Plaintiff for E10 000 and costs.

S.W. SAPIRE

ACTING CHIEF JUSTICE