

**IN THE SUPREME COURT OF GRENADA
AND THE WEST INDIES ASSOCIATED STATES
HIGH COURT OF JUSTICE
(CIVIL)**

GRENADA

CLAIM NO. GDAHCV2022/0319

BETWEEN:

NIGEL DOMINIC STEWART

Claimant

and

DENISON GEORGE

Defendant

Before:

The Hon. Mde. Justice Agnes Actie

High Court Judge

Appearances:

Mr. Kristopher Ross-Fields for the Claimant

Ms. Sandina Date for the Defendant

2024: April 23rd;
2025: January 17th.

JUDGMENT

- [1] **ACTIE, J.:** This is a defamation claim for statements made by the defendant during a television program broadcast titled "Beyond the Headlines" aired on the 20th December 2021 on the Grenada Broadcasting Network.

Claimant's Case

- [2] The claimant is an Attorney-at-Law and the husband of the former Minister of Carriacou and Petite Martinique responsible for Home Affairs and Local Government. The claimant states that he represented an accused at a trial in the Magistrate's Court whereby the accused pleaded guilty to a sexual offence against a minor. The accused was sentenced to pay a fine of \$1,500.00 to the State and \$600.00 to the victim's mother.

[3] The claimant avers that that the case generated significant public interest and outcry due to the perceived disproportionate lenience on the part of the Magistrate who sentenced the accused.

[4] The claimant contends that while speaking on the program based on the case, the defendant said the following words:

“Let me say this: this was nothing more than corruption. Corruption, nepotism and favouritism. This individual hired the Minister of Carriacou husband to be his lawyer. That was no coincidence. We have proof that an airline ticket was purchased for this guy to get out of Grenada once that verdict was read, on American Airlines.”

[5] The claimant contends that the defendant further stated:

“Let me just say this. I was the one who brought this case to the FBI. I was the one who brought this case to the US Attorney’s Office, the Brooklyn DA’s office, and the New York State Attorney General’s Office. So I’m privy to more information than Mr. Ramdhani maybe has. But I want to say clearly that this was a miscarriage of justice... the Grenadian Justice System when it comes to dealing with these kinds of cases, when it comes to dealing with this case was an idiocracy. Plain and simple. And corruption, nepotism, and favouritism played its head in this case and this is why this individual evade justice in Grenada.”

[6] The claimant avers that he was libelled by the defendant over zoom and further in the forum of the live television program which was being broadcasted nationally to the public of Grenada.

[7] The claimant contends that the natural and ordinary meanings of the words were as follows:

- (1) The sentence handed down to the accused was lenient due to the presence of corruption in the proceedings;
- (2) The claimant was intentionally hired to be the attorney of the accused because the claimant, as the then husband of a Minister of Government, had some undue and corrupt influence over or relationship with members of the magistracy; and
- (3) The claimant was only able to get a lenient sentence for his client, because of nepotism, corruption and favouritism, in which the claimant was somehow involved.

- [8] The claimant further contends that beyond their natural and ordinary meaning, these words could also be taken to mean by innuendo that the claimant was involved in attempting to have the accused rushed out of the country after being sentenced in an attempt to remove him from the jurisdiction of the courts of Grenada.
- [9] The claimant asserts that the defendant's statements lowered his estimation in the eyes of right-thinking members of society. The claimant further asserts that he has been exposed to public odium and contempt and suffered reputational damage, hurt feelings and significant mental anguish as a result of the defendant's defamatory statements.
- [10] The claimant claims among other things, damages for defamation, an order compelling the defendant to publish a retraction and apology for the statements, interests and costs.

Defendant's Case

- [11] The defendant states that his views as expressed on the program were premised by his introductory statement of:

"Let me just say that I am very very disappointed in what your guest Mr. Ramdhani just said. It's very very disappointing. I don't know how he could sit there and say people did a good job. I don't know how he could sit there and justify someone who violated a child in the most vicious sexual way and justify that this individual was required to pay \$600.00 to the parent for counselling and \$1,200.00 [sic] to the state I don't know how Mr. Ramdhani could sit there and claim that justice, that the police did a good job that this one did a good job... this was a travesty of justice... you spoke about putting the child through trauma what about the trauma this child has to go through the rest of his life about what this individual did to this child."

- [12] The defendant states that the words uttered by him were not defamatory, and that he made one fleeting unnamed reference to the claimant as the accused man's attorney, and that for the remaining duration of the program the claimant was not referenced or named.

[13] The defendant also contends that his statement was a criticism of the judicial system and expression of the defendant's opinion on a highly published social and legal issue. The defendant states that the statement did not extend itself beyond a matter of public interest and denies that he attacked the claimant's character.

[14] The defendant further states that at the material time in Grenada there were national discussions addressing topics of protecting children from abuse, and that the case was in flagrant discord to the government's purported observance of Child Month.

[15] The defendant relies on the defences of justification and fair comment, and states that the words represented fair comment on a matter of public interest.

Legal Analysis

Whether the words complained of are defamatory

[16] Defamation is committed when the defendant publishes to a third person words or matter containing an untrue imputation against the reputation of the claimant¹. To succeed in an action for defamation, a claimant must prove the making of a statement by a defendant tending to lower the claimant in the estimation of right thinking-members of the society, the publication of that statement to a third party/parties, and the words must be construed in their natural and ordinary meaning².

[17] The authors of **Halsbury's Laws of England**³ describe the test of what is defamatory in the following manner:

“In deciding whether or not a statement is defamatory, the court must first consider the notional single meaning that the words would convey to the ordinary person. ... the court seeks to determine and act upon the one and

¹ Dr. Edmond Mansoor v Eugene Silcott ANUHCV2010/0209

² Gaston Browne v Isaac Newton ANUHCVP2020/0028

³ (5th edn., 2023) vol. 32, para 543

only meaning that the readers as reasonable persons should have collectively understood the words to bear. Having determined the meaning, the test is whether, under the circumstances in which the words were published, the reasonable person would be likely to understand them in a defamatory sense. ...

Words will be defamatory if they impute conduct the reasonable person considers discreditable, even though in the author's stated view such conduct is proper."

- [18] In **Charleston & Anr v News Group Newspapers Ltd & Anr**⁴ their Lordships referred to the text of Duncan & Neil on Defamation⁵ as follows:

"In order to determine the natural and ordinary meaning of the words of which the plaintiff complains it is necessary to take into account the context in which the words were used and the mode of publication..."

- [19] Counsel for the claimant argues that on a plain reading of the words the defendant identified the fact that the claimant was hired as the convict's lawyer as being an example of the corruption, nepotism, and favouritism present in the criminal case. Counsel for the claimant also asserts that the defendant alluded to the claimant's marriage to a Minister of Government, to substantiate the allegation of the presence of corruption.
- [20] On the other hand, counsel for the defendant states that no foundation was laid to impugn the claimant and no connection was made between the claimant and the statements. Counsel for the defendant argues instead that the statements referenced a flawed magisterial judiciary. It is the defendant's evidence that when he mentioned the claimant by his reference to the then Minister, he did not attempt to impugn him but listed him as part of the entire judicial system which seemed to have failed the victim. The defendant states that the comments of corruption, nepotism and favouritism do not accuse the claimant of any misdeed and that the comments were made to identify the lax judicial experience afforded to the convict.

⁴ [1995] 2 AC 65

⁵ 2nd ed (1983) p 13 para 4.11

[21] While the defendant did not specifically accuse the claimant of the said corruption, nepotism and favouritism which he highlights in his statement, the court cannot ignore the fact that when mentioning the said corruption, nepotism and favouritism, the defendant proceeded to reference the claimant, the husband of a then Minister of Government, as being the attorney for the convict. Further, after said reference to the claimant, the defendant explicitly states that the hiring of the claimant as the convict's attorney "was no coincidence".

[22] The evidence of the defamatory statements complained of by the claimant is given by the claimant and Janelle Mc Donald, witness for the claimant. Janelle Mc Donald states that after the defendant uttered the defamatory words, the moderator of the program, Mrs. Odette Campbell, interjected at that point to caution the defendant and said:

"Let me just say that we are on National TV, and whereas you might have some information, we at the GBN do not have corroborating information... so we have to protect ourselves, right? And where it is not necessary to be naming names, let's stay away from that...Let's just lay the guidelines, right? I want us to discuss the intricacies of the case without laying any groundwork to have any defamation cases brought against us."

[23] The defendant in response stated:

"I was the one who brought this case to the FBI. I was the one who brought this case to the US Attorney's office, the Brooklyn DA's office and the New York State Attorney General office, so I am privy to more information than Mr. Ramdhani maybe has. But I want to let you know, I want to state clearly this was a miscarriage of justice, the Grenadian justice system when it comes to dealing with these kinds of cases, and when it comes to dealing with this case, was an idiocracy. Plain and simple. And corruption, nepotism and favouritism played its head in this case and this is why this individual evade justice in Grenada but I promised him he was gonna face justice in America and today he is facing justice, thirty years in federal prison."

[24] The news anchor noting the potential defamatory nature of the statement cautioned the defendant unless he could provide facts to substantiate his accusations in relation to the claimant. The defendant in response did not retract his statement but insisted that he was privy to evidence to validate his assertions. The clear imputation made by the defendant in his statement was that the claimant's proximity to the said Minister of Government afforded him, and therefore the convict, certain special privileges, arising out of the named

corruption, nepotism and favouritism, which resulted in the sentence which was passed to the convict. This, the court finds, is the understanding which the average viewer would have gained upon viewing the program and hearing the statements. The court accepts the meanings ascribed by the claimant and finds that statements made by the defendant were defamatory of the claimant.

- [25] Counsel for the claimant in pre-trial and closing submissions further argues that the defendant's statement regarding the airline ticket intimated that the ticket was purchased for the convict by the claimant for the convict to be removed from the jurisdiction. The defendant stated:

“We have proof that an airline ticket was purchased for this guy to get out of Grenada once that verdict was read...”

- [26] Counsel for the claimant argues that having only positively identified the claimant and the convict in his preceding statements, the reasonable listener would likely conclude that the airline ticket for the convict was purchased by the claimant in an attempt to remove the convict from the jurisdiction of the courts of Grenada.
- [27] The court notes that the defendant did not draw any inference to the claimant purchasing the airline ticket for the convict. While in this instance the purchasing of an airline ticket may suggest a desire to be removed from the jurisdiction, there is no nexus as between the purchase of the ticket and the claimant. The mere identification of the claimant in a previous sentence does not automatically connect all of the defendant's references to the claimant. The court therefore does not agree with the claimant, and finds that based on the evidence, this indication was made by the defendant as an example of the controversial circumstances surrounding the case of the convict, and not as innuendo in defamation of the claimant in relation to the purchasing of the airline ticket.

Whether the statements made by the defendant were fair comment

- [28] Having found that the words complained of are defamatory of the claimant, the issue is whether the defendant can rely on the defence of fair comment which is a complete defence to an action for defamation.

[29] **Section 13 of the Libel and Slander Act**⁶ and reads:

“In an action for libel or slander in respect of words consisting partly of allegations of fact and partly of expressions of opinion, a defence of fair comment shall not fail by reason only that the truth of every allegation of fact is not proved if the expression of opinion is fair comment having regard to such of the facts alleged or referred to in the words complained of as are proved.”

[30] To benefit from the defence of fair comment the words complained of are to be honest or fair comment on a matter of public interest⁷. In **Vere Bird III v Gaston Browne**⁸, Byer J explained the defence of fair comment as follows:

“For the Defendant to avail himself of this defence he must however show that the words are comments and not statements of facts. They must also show that there is a basis, which is some allusion, to the facts underpinning the comment, that it is based on facts that are true or protected by privilege and the comment is one that is objectively fair in that an honest and fair-minded person could hold that view. ‘The defence is not in-applicable because the comment was prejudiced or exaggerated or ‘unfair’ in the ordinary sense of the word’⁹ and finally the comment must be on something that is of public interest. That is, ‘one which has been expressly or implicitly put before the public for judgment or is otherwise a matter with which the public has a legitimate concern’¹⁰.”

[31] Lord Nicholls in the case of **Cheng Albert and another v Tse Wai Chun Paul**¹¹, relied on by both parties stated the following five ingredients of the defence described as “non-controversial” and “well established”:

- (1) The comment must be a matter of public interest.
- (2) The comment must be recognizable as comment as distinct from an imputation of fact.
- (3) The comment must be based on facts which are true or protected by privilege.
- (4) The comment must explicitly or implicitly indicate at least in general terms the facts on which the comment was made.

⁶ CAP 171

⁷ “Gatley on Libel and Slander” (12th edn.) at para 12.1

⁸ ANUHCv2019/0683

⁹ Abraham Mansoor and Ors v Grenville Radio Ltd ANUHCv2004/0408 at paragraph 102

¹⁰ *ibid*

¹¹ (2000) 10 BHRC 525

- (5) The comment must be one which could have been made by an honest person, however prejudicial he might be and however exaggerated or obstinate his views. It must be germane to the subject matter criticized.

[32] The court in **Cheng Albert and another v Tse Wai Chun Paul**¹², held that a comment falling within those objective limits of the defence of fair comment would lose its immunity only by proof that the defendant did not genuinely hold the view he expressed. Honesty of belief was the touchstone. Actuation by spite, animosity, intent to injure, intent to arouse controversy or other motivation, even if it was the dominant or sole motive, did not of itself defeat the defence¹³.

[33] A critical point is that the words must be comment, not a statement of fact, although an inference of fact from other facts may amount to a comment¹⁴. This principle was explained in **Gatley on Libel and Slander**¹⁵ as follows:

“...if the author sets out facts in relation to the Claimant’s conduct and states that his inference from those facts is that the Claimant must have been bribed so to act his statement will fall within the defence.”

[34] The court in considering the purported defamatory statement is guided by the above principles. It has not been disputed that the comment was a matter of public interest, it being made during a discussion of the lenient sentencing of a child sex offender.

[35] However the claimant contends that the facts upon which the comment was based were not true. The court notes that the relevant statements in the extant matter are based on the fact that the claimant was the attorney of the convict. This fact is not denied and was also indicated by the defendant in the contended statements.

[36] With respect to the requirement of the comment being one which an honest person could have made, counsel for the defendant relies on the case of **Abbott**

¹² (2000) 10 BHRC 525

¹³ (2000) 10 BHRC 525

¹⁴ Abraham Mansoor et al v Grenville Radio Limited et al ANUHCv2004/0408

¹⁵ Sweet & Maxwell (10th edn.) 2004 para 12.10

v Hadeed¹⁶, where our Court of Appeal referenced the decision in **Tse Wai Chun Paul v Albert Cheng**¹⁷ in the following manner:

“...Lord Nicholls of Birkenhead indicated that the touchstone in determining whether a comment is fair is the honesty of the defendant in his belief in the view that he has expressed. Provided that the views expressed are honestly held and are germane to the subject matter on which it is made, it matters not how prejudiced or exaggerated they are. At paragraph 24, he stated that honesty is to be determined objectively.”

[37] On the other hand, the claimant argues that the defendant failed to demonstrate how a reasonable commenter would have reached the conclusions of the defendant based on the facts proven. The court is of the view however that an allegation of corruption is one which could honestly be expressed by a reasonable commenter, having regard to the leniency of the sentence and the trifling compensation awarded to the victim taking into consideration all the circumstances of the case.

[38] However, it is the law that that it is generally necessary that the words complained of should explicitly indicate, at least in general terms, the factual basis for the comment¹⁸.

[39] The defendant when making the defamatory statement in relation the nepotism in the hiring of the claimant as husband of the Minister to represent the accused, spoke with a sense of authority by referencing that he had more reliable knowledge and information than most, due to his proximity to an investigation taking place in the United States of America. The defendant after being cautioned by the television anchor on the program did not state that the corruption, nepotism and favouritism which were allegedly exhibited in the conduct of the criminal matter was of his belief, or opinion, but described it to be so as if factually supported when he said:

“I was the one who brought this case to the FBI. I was the one who brought this case to the US Attorney’s office, the Brooklyn DA’s office and the New York State Attorney General office, so I am privy to more information...”

¹⁶ HCVAP2010/0041

¹⁷ [2001] EMLR 777

¹⁸ Joseph v Spiller [2010] UKSC 53

[40] The statement suggests that the defendant was in possession of information to substantiate his assertions. It is requirement that a defendant who pleads the defence of fair comment in a defamation claim must establish all the requirements of the defence. In the case of **Hunt v Star Newspaper**¹⁹, Fletcher Moulton LJ stated the following:

“Any matter, therefore, which does not indicate with a reasonable clearness that it purports to be comment, and not statement of fact, cannot be protected by the plea of fair comment.”

[41] The court accepts that the matter was one of great public interest however the difficulty the defendant faces is the requirement of the comment being recognizable as a comment as distinct from an imputation of fact. The defendant stated that corruption, nepotism and favouritism played its head in this case, and this is why the convict evaded justice in Grenada. There is no dispute that the defendant referred to the claimant as being part of the nepotism and corruption. The defendant although boldly stating that he had evidence to substantiate his assertions has neither satisfied the court that the facts relied on are true or provided reasonable evidence to prove his statement of facts of the claimant's involvement in the perceived corruption to benefit from the defence of fair comment. These bold assertions of being in possession of information are statements of facts and not comments. The defendant failed to give particulars of all the facts upon which the purported fair comment was legitimately made which is fatal to a defence of fair comment. Accordingly, the defence of fair comment fails.

Whether the defendant can rely on the defence of justification

[42] **Section 12 of the Libel and Slander Act** provides:

“In an action for libel and slander in respect of words containing two or more distinct charges against the plaintiff, a defence of justification shall not fail by reason only that the truth of every charge is not proved if the words not proved to be true do not materially injure the plaintiff's reputation having regard to the truth of the remaining charges.”

¹⁹ [1908] 2 KB 309

[43] Counsel for the defendant failed in pre-trial submissions to address the court on the applicability of the defence to these proceedings but raises arguments in favour of the defence in closing submissions.

[44] Counsel for the defendant states that the defendant's comments were premised on the fact that the accused man was charged and remanded in the United States on similar allegations which, in Grenada, he was charged summarily and granted bail. She states that the comments were further premised on the sentence received by the convict being manifestly inadequate and wrong in principle.

[45] Respectfully, the statement concerning to the convict being charged and remanded in the United States, and of the sentence he received being wrong in principle is not in dispute. What is in dispute is the defamatory statement made against the claimant with respect to the engagement of corruption, nepotism and favouritism for the benefit of the convict. Evidence of said corruption, nepotism and favouritism have not been proffered to the court by the defendant. Accordingly, the defendant also fails on the defence of justification. .

Conclusion

[46] The court applying the jurisprudence to the facts finds that the statements made by the defendant referencing the claimant were defamatory of the claimant.

Order

[47] Accordingly, it is therefore ordered and directed as follows:

- (i) Judgment is entered in favour of the claimant.
- (ii) The defendant shall publish a retraction and an apology to the claimant for the defamatory statement referencing the claimant through the same medium, Grenada Broadcasting Network, within twenty-one (21) days of today's date.
- (iii) Damages to the claimant to be assessed if not agreed within twenty-one days from today's date.

- (iv) Failing settlement, the claimant shall file and serve witness statements and submissions with authorities in support of the assessment.
- (v) The defendant shall file and serve witness statements and submissions with authorities in response within twenty-one (21) days of service by the claimant.
- (vi) The claimant shall apply to the court office for the scheduling of the assessment of damages before the master.

**Agnes Actie
High Court Judge**

By the Court

Registrar