

SAINT LUCIA

IN THE HIGH COURT OF JUSTICE

CLAIM NO. SLUHCV2023/0193

BETWEEN:

[1] RICHARD FREDERICK

Claimant

and

[1] MARVIN CHARLES

Defendant

Appearances:

Mr. Jared Jagroo for the Claimant

Ms. Vanessa Pinnock for the Defendant

2024: May 21
July 02

JUDGMENT

- [1] **SAUNDERS, M:** The Claimant ("*Mr. Frederick*") is an attorney, a politician and a current member of parliament. The Defendant ("*Mr. Charles*") is a political commentator. Mr. Frederick has brought a claim in defamation against Mr. Charles concerning publications allegedly made by him on 2 April ("*the 2 April Publication*"), 22 April ("*the 22 April Publication*") and 21 May 2023 ("*the 21 May Publication*") during Facebook livestreams called "*Impact. no bias no bull*".
- [2] On 29 February 2024 Mr. Frederick applied for an order pursuant to Part 58 Rule 4 that the Publications are capable of bearing a meaning or the meanings attributed to them in his amended Statement of Claim filed 17 October 2023.
- [3] The parties made oral submissions on 21 May 2024 and after reserving my judgment I have ordered, for the reasons set out further below, that:
- i. In relation to the 2 April Publication, it is reasonably capable of the meanings attributed to it at subparagraphs "**13.i**"-"**13.iii**", "**13.v**" and "**13.vii**" of the

amended Statement of Claim. The 2 April Publication is not capable of the meanings attributed to it at subparagraphs “13.iv” and “13.vi” of the amended Statement of Claim.

- ii. In relation to the 22 April Publication, it is reasonably capable of the meanings attributed to it at subparagraphs “14.i”-“14.ix” of the amended Statement of Claim.
- iii. In relation to the 21 May Publication, it is reasonably capable of the meanings attributed to it at subparagraphs “15.i”-“15.v” and “15.vii-15.viii” of the amended Statement of Claim. The 21 May Publication is not capable of the meaning attributed to it at subparagraph “15.vi” of the amended Statement of Claim.

THE COURT’S REMIT UNDER PART 58.4 OF THE CPR – A RULING ON MEANING

[4] On an application pursuant to Part 58.4 of the CPR (“*a Ruling on Meaning*”), the Court must consider whether alleged defamatory statements are capable of the defamatory meanings attributed to them by the claimant. The Court therefore does not need to be concerned with making a finding of whether the defamatory words are in fact defamatory¹. The full rule is as follows:

“Ruling on meaning 58.4

(1) At any time after the service of the statement of claim, either party may apply to a judge in chambers for an order determining whether or not the words complained of are capable of bearing a meaning or meanings attributed to them in the statement of case.

(2) If it appears to the judge on the hearing of an application under paragraph (1) that none of the words complained of are capable of bearing the meaning or meanings attributed to them in the statement of case, the judge may dismiss the claim or make such other order or give such judgment in the proceedings as may be just.”

¹ Alsafi v Amunwa [2017] 4 WLR 172 at [45]

- [5] Previously, a Ruling on Meaning was typically sought to pre-empt perversity on the part of the jury and for that reason it has been described as “*an exercise in generosity not parsimony*”². In **Alban Felicien v Christopher Hunte** SLUHCV2019/0171 Master Sandcroft approved the decision **Mapp v News Group Newspaper Ltd** [1998] Q.B. 52 concerning the Court’s role in determining a Ruling on Meaning in which the following is stated:

“In my judgment, the proper role for the judge, when adjudicating a question under Ord., 82, r. 3A, is to evaluate the words complained of and to delimit the range of meanings of which the words are reasonably capable, exercising his own judgment in the light of the principles laid down in the above authorities and without any Ord. 18, r. 19 overtones. If he decides that any pleaded meaning falls outside the permissible range, it is his duty to rule accordingly. It will, as is common ground, still be open to the plaintiff at the trial to rely on any lesser defamatory meanings within the permissible range but not on any meanings outside it. The whole purpose of the new rule is to enable the court in appropriate cases to fix in advance the ground rules on permissible meanings which are of such cardinal importance in defamation actions, not only for the purpose of assessing the degree of injury to the plaintiff’s reputation, but also for the purpose of evaluating any defences raised, in particular, justification or fair comment. This applies with particular force in a case like the present where there is a defence of justification of a lesser meaning than that pleaded in the statement of claim

- [6] As regards how the Court construes statements in making a determination regarding whether speech is defamatory, see the Court of Appeal’s statements in **Gaston Browne v Isaac Newton** ANUHCVP2020/0028 at [33]-[35]:

“[33] At common law, defamation is the publication of a statement which tends to lower a person in the estimation of right-thinking members of society. 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 and the publication of that statement to

² Alsafi v Amunwa [2017] 4 WLR 172 at [47]

a third party or parties. The words must be construed in their natural and ordinary meaning which is the meaning that would occur to the ordinary reasonable person.

[34] It has been held that in determining whether the words were capable of conveying that defamatory meaning:

'[T]he court will reject those meanings which can only emerge as the product of some strained or forced or utterly unreasonable interpretation...The ordinary and natural meaning...may therefore include any implication or inference which a reasonable reader guided not by any special but only by general knowledge and not fettered by any strict legal rules of construction would draw from the words.'

[35] As Lord Reid observed in Lewis v Daily Telegraph: 10 '...but more often the sting is not so much in the words themselves as in what the ordinary man will infer from them, and that is also regarded as part of their natural and ordinary meaning' [emphasis added]

- [7] In giving its decision in respect of a Ruling on Meaning, the Court must marry the principles set out above by the Court of Appeal concerning the construction of allegedly defamatory speech with the dicta in **Mapp v News Group Newspaper Ltd**, which provide in essence, that at this stage the Court is only attempting to “*delimit the range of meanings of which the words are reasonably capable*”.

THE ALLEGEDLY DEFAMATORY PUBLICATIONS

- [8] The statements that Mr. Frederick complains about are set out at paragraphs 5, 6 and 7 of the Amended Statement of Claim and are as follows:

“5. This country will keep doing bad. This man is a Judas. This man portray on camera whenever a camera is on he makes people believe he is such a good man. We will continue on the facts on the truth about this Richard Frederick. You cannot miss our show today. Today we will go deep down into the life of this man. A man which is fake, a man who claims, “can I help you?” but can I help.... Richard Frederick, I will say because I am not afraid

of you. You will interfere with your children before Marvin Charles because you are a pig! You Richard Frederick, anything that have life, right, you will lay on. So you see when your messengers will come and accuse me and you will say nothing because they are using your name, I can. People don't know the law. You can want to take people to court mentioning your name, but when does people come under the nasty circumstances mentioning your name, saying that you are their boss, I will not attack you, you will continue attacking me the minute I mention your name, you will not come and denounce the things that they are saying about people, but let me tell you Richard, if they put me and you on a scale in a room with our children, you know, I believe you will touch your children before I touch my child. Yes that I said it! Mother heifer try to take me to court because that is what you want to do! You want to give people enough rope.... The crimes that you Richard have committed, you are a criminal, shot in your neighbour's yard, you are a convict, and you are carrying a gun. That is the kind of law that we have in St Lucia where you have people like Richard Frederick..."³ [emphasis added]

...

"6. I need to know, so when everybody believe you're a standup man, we want to know, are you really a standup man, Richard? Richard, you are evil, Richard. You are evil... Where is your son, Richard? Did you abandon your son? The only son, did you abandon him? And why did you abandon him? Tell the nation. You believe you have everybody's file. You believe your family is straight up, when your family is the dirtiest of all. There is one that is trying to mention my name but I will tell her, she need to stay in her corner because the only people that have not passed on her in the good village is people that don't want her, and the people that are unborn, yes. And go and say I dis her. The truth is the truth. Yes, the truth is the truth... Richard is a bluffer. Richard is a sick, mudderf'er. Yes, he is a sick man. He is a bluffer. He is a coward. He is a bother, you know, that's what he is.....he is a coward, he is a bother, you know, that is what he is... Richard Frederik is one of the worst diseases. Richard Frederick is a nuclear weapon. Richard

³ Amended Statement of Claim; [5]

Frederick is a weapon of mass destruction.... I will explain to the judge why I call him a weapon of mass destruction. A man that will slap people around. A man that will shoot into a neighbour's property...A man that will go by the casino and kick in somebody vehicle. And there is more I am waiting to say when I go to court. Yes. People, everybody know who Richard is. Y'all know how many times y'all to do whatever, y'all know it. And y'all have people out there believing Richard is a God, Richard is a humble servant. A humble Satan-"⁴ [emphasis added]

....

"7. For ten years he have been at Allen Chastnet because Richard have more baggage than Allen Chastnet. "Woo, woo. Woo, woo. Woo, woo. This man don't deserve to be in St. Lucia politics. This man have proven to us many times how dangerous he is. Remember the Peetoo [phonetic] lands, when they were in opposition that same Richard Frederick say the flooboo [phonetic] or government had no right to sell this land to nobody. This Richard Frederick, he had a gun. Albert Regis [phonetic] and Company, they worked to the Peetoos. There was security to get the private lands. He again, he broke the law with a gang of people because that is what they were doing in opposition. .. You want to say, you are well respected in this country. You, Richard, a man who have displayed on many occasions public bad manners, bad behavior, because you believe you have a power over people. Whenever they hear Richard Frederick, they are afraid, they are afraid. Yes, I will say it publicly, you did, you did other people to go behind me on my show to frighten me on my show. This young lady, Nicole Mc Donald, and you accuse her of sleeping with Rick Wayne. Richard, you out of all persons you will know about people sleeping with young women. You will know about it, that is why you believe everybody is like others. You believe everybody is like you, so you will accuse Rick Wayne. You will accuse the bright, talented Nicole Mc Donald. You have accused how many women. You have insulted how many women"⁵ [emphasis added]

⁴ Amended Statement of Claim; [6]

⁵ Amended Statement of Claim; [7]

WHETHER THE PUBLICATIONS ARE CAPABLE OF THE PLEADED MEANINGS

The 2 April Statement

[9] Mr. Frederick has pleaded the defamatory meanings of the 2 April Publication in the roman numerals “i-vii” in bold below. I have set out my decision and reasoning regarding whether the 2 April Publication is capable of those pleaded meanings in underlined text inline.

- i. **Mr. Frederick is involved in illegal and/or corrupt activities and/or criminal activities and/or immoral activities;**

On several occasions during the 2 April Publication, there is speech which is capable of meaning that Mr. Frederick sexually abuses his children which is a crime⁶ and which the ordinary listener may consider to be immoral or corrupt. Although the word “sex” is never used in the 2 April Publication, the words “interfere”, “lay” and “touch” are. In the context in which those words are used, it does seem to me that they are capable of being understood in a sexual sense by the ordinary reasonable person. Mr. Frederick is also plainly stated to be a criminal in the penultimate sentence of the 2 April Publication.

The Defendant has made submissions and given affidavit evidence that in the context of this publication the reasonable listener would not have understood the words in the manner pleaded. Although that may or may not ultimately be found to be so, I don’t believe it changes the fact that the statements could possibly have been understood in the defamatory manner pleaded by the ordinary listener. The fact that it is stated that Mr. Frederick would sooner “interfere” with his children before the speaker, in my view, is capable of causing the impression on the ordinary reasonable listener that the speaker was suggesting that Mr. Fredrick has a certain proclivity or predisposition to incest which the speaker does not have.

⁶ The Criminal Code; art. 157

ii. **Mr. Frederick sexually abuses his children;**

The 2 April Publication is capable of this meaning for the reasons set out directly above

iii. **Mr. Frederick is a fraud;**

The first few sentences in the 2 April Publication are capable of being understood to mean that Mr. Frederick is not genuine and is a fraud, particularly the 2nd sentence and the comparison of Mr. Frederick to the biblical character Judas. In the Defendant's submissions they have suggested that no accusation of fraud was made, however, the pleaded sting, as I understand it, is that of Mr. Frederick not being genuine, or, as is often stated in common parlance, that Mr. Frederick "is a fraud". In other words, the defamatory meaning relied on is not that Mr. Frederick committed fraud but rather that he is not a genuine person, which I find the publication to be capable of meaning.

iv. **Mr. Frederick has hired his messengers who do his dirty work for him;**

The statement in the 2 April Publication that Mr. Frederick's messengers will make accusations concerning Mr. Charles is not capable of this meaning. There is nothing in the publication to suggest that Mr. Frederick actively hires persons to do his "dirty work". I accept, however, that the 2 April Publication may be capable of the lesser meaning that persons make accusations about the speaker on Mr. Frederick's behalf.

v. **Mr. Frederick is a person of despicable character;**

I agree that part of the sting of the alleged statements concerning Mr. Frederick's alleged or supposed incest is capable of being that he is despicable and such possible imputation is to be considered part of the ordinary meaning of the 2 April Statement (see **Gaston Browne v Isaac Newton**).

- vi. **Mr. Frederick has misused and abused his office and acted for private gain;**

I do not agree that the 2 April Publication is capable of being understood by the ordinary reasonable person as being that Mr. Frederick misused his office and acted for private gain. No part of the 2 April Statement concerns Mr. Frederick misusing his office for private gain and the other possible defamatory statements that I have found are of a dissimilar and unrelated nature.

- vii. **Mr. Frederick is unfit for public office.**

Notwithstanding my decision in respect of the pleaded meaning at “9.vi” above, I do agree that the conclusion that Mr. Frederick is unfit for public office is a possible sting of the 2 April Publication considering the publication as a whole and the possible defamatory meanings set out above.

The 22 April Statement

[10] In respect of the 22 April Publication Mr. Frederick has pleaded the defamatory meanings in roman numerals “i-ix” in bold below. Again, my decision regarding whether the 22 April Publication is capable of the pleaded defamatory meanings is underlined below.

- i. **Mr. Frederick is not an upstanding and straightforward person of good character;**

The 2nd and 3rd sentences in the 22 April Publication state that Mr. Frederick “is evil”. In my view, therefore, the 22 April Publication is capable of being understood as having the lesser meanings that Mr. Frederick is not straightforward, upstanding nor of good character.

- ii. **Mr. Frederick is a person of despicable and vile character;**

In addition to the statements that Mr. Frederick is evil, in the middle of the 22 April Publication, Mr. Frederick is called a disease, a nuclear weapon and a weapon of mass destruction. In my view, the 22 April Publication is capable of meaning that Mr. Frederick is a person of despicable and vile character.

- iii. **Mr. Frederick has abandoned his son;**
This is stated plainly insofar as the loaded question is asked, “why did you abandon your son”. The publication is therefore capable of this meaning.

- iv. **Mr. Frederick comes from a family that lacks moral values and good character;**
Insofar as it is stated in the publication that Mr. Frederick’s family “is the dirtiest of them all” and an example of a promiscuous relative of Mr. Frederick’s is given, the 22 April Publication is capable of this meaning.

- v. **Mr. Frederick is corrupted and perverted;**
In light of my comments regarding the pleaded meanings at “10.i” and “10.ii”, the 22 April Publication is capable of this meaning.

- vi. **Mr. Frederick is a coward;**
That Mr. Frederick is a “coward” is stated towards the middle of the 22 April Publication and it is therefore capable of this meaning.

- vii. **Mr. Frederick causes serious harm by his words, actions and conduct;**
Although the statements that Mr. Frederick is a coward and a bluffer detract from the 22 April Publication being understood in this way, the fact that Mr. Frederick is called a nuclear weapon, a weapon of mass destruction, together with statements that he will slap people around and shoot into a neighbour’s property, may cause the ordinary listener to understand the speech, as a whole, to mean that Mr. Frederick does cause serious harm, or, inflicts violence. In my view this meaning is at the outer limit of the 22 April Publication.

- viii. **Mr. Frederick publicly displays violent behaviour;**
I agree that it is possible that the 22 April Publication could be understood to have this meaning although in my view it is also at the outer limit of the meaning of the 22 April Publication for the reasons I discuss in “10.vii”.

ix. **Mr. Frederick is evil.**

I agree that the 22 April Publication is capable of this meaning in light of my comments in respect of “10.i”.

The 21 May Statement

[11] In respect of the 21 May Publication Mr. Frederick has pleaded the defamatory meanings in roman numerals “i-viii” in bold below. My decision regarding whether the 21 May Publication is capable of the pleaded defamatory meanings is once again underlined.

i. **Mr. Frederick has several skeletons in the closet;**

Insofar as the publication begins with the claim that Mr. Frederick has more “baggage” than Mr. Chastnet, I believe the 21 May Publication is capable of this meaning given the context in which the word “baggage” is used

ii. **Mr. Frederick is involved in illegal and/or corrupt activities and/or criminal activities and/or immoral activities;**

The 21 May Publication is capable of this meaning insofar as it is stated that Mr. Frederick broke the law while not in Government

iii. **Mr. Frederick is dangerous;**

That Mr. Frederick has “proven how dangerous he is” is stated in the 21 May Publication and it is therefore capable of this meaning.

iv. **Mr. Frederick publicly displays bad manners and behaviour;**

There is a statement that Mr. Frederick displayed bad manners in the 21 May Publication and it is capable of this meaning.

v. **Mr. Frederick is a person of despicable character;**

Although this is never stated specifically in the 21 May Publication, the whole of the statement is capable of this meaning, considering the several pejorative descriptions of Mr. Frederick therein.

- vi. **Mr. Frederick has wronged several people who are afraid to speak out against him;**

I do not agree that the 21 May Publication is capable of this specific meaning. Although there is a statement that people are afraid of Mr. Frederick, it is not made clear for what reason. I do believe, however, that the 21 May Publication is capable of the lesser imputation that persons are afraid of Mr. Frederick.

- vii. **Mr. Frederick engages in sexual activity with several young women;**

This statement is suggested towards the end of the 21 May Publication and it is therefore capable of this meaning.

- viii. **Mr. Frederick has accused and disrespected numerous young women.**

This assertion is also plainly made in the 21 May Publication and it is capable of this meaning.

- [12] There was some argument in the affidavit evidence and the written submissions concerning whether Mr. Charles in fact made the Publications, however, both parties acknowledged during the oral submissions that the Court's role on a Ruling on Meaning was not to make a finding of fact concerning Publications but only to delimit the outer limit of their meanings.

THE COURT'S ORDER

- [13] In light of my reasons set out above I hereby order as follows:

- i. In relation to the 2 April Publication, it is reasonably capable of the meanings attributed to it at subparagraphs "**13.i**"-"**13.iii**", "**13.v**" and "**13.vii**" of the amended Statement of Claim. The 2 April Publication is not capable of the meanings attributed to it at subparagraphs "**13.iv**" and "**13.vi**" of the amended Statement of Claim.
- ii. In relation to the 22 April Publication, it is reasonably capable of the meanings attributed to it at subparagraphs "**14.i**"-"**14.ix**" of the amended Statement of Claim.

- iii. In relation to the 21 May Publication, it is reasonably capable of the meanings attributed to it at subparagraphs “15.i”-“15.v” and “15.vii-15.viii” of the amended Statement of Claim. The 21 May Publication is not capable of the meaning attributed to it at subparagraph “15.vi” of the amended Statement of Claim.
- iv. Costs in the cause to the Claimant.

**Yuri Saunders
Master**

By The Court

Registrar

