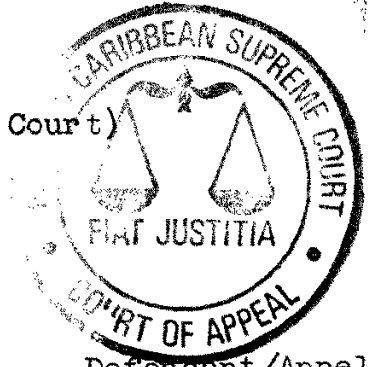


IN THE COURT OF APPEAL

ANTIGUA

(On appeal from the Magistrate's Court)



Civil Appeal  
Mag. No. 2 of 1969

Between

JOAN LAKE Defendant/Appellant  
and  
ROSE CLARE MURRAY by her  
next friend Cahona McCoy Plaintiff/Respondent

Civil Appeal  
Mag. No. 2A of 1969

Between

LOUISA BRIGHT Defendant/Appellant  
and  
ROSE CLARE MURRAY by her  
next friend Cahona McCoy Plaintiff/Respondent

Civil Appeal  
Mag. No. 2B of 1969

Between

JOAN LAKE Plaintiff/Appellant  
and  
ROSE CLARE MURRAY Defendant/Respondent

Civil Appeal  
Mag. No. 2C of 1969

Between

LOUISA BRIGHT Plaintiff/Appellant  
and  
ROSE CLARE MURRAY Defendant/Respondent

Before: The Hon. the Chief Justice  
The Hon. Mr. Justice Gordon  
The Hon. Mr. Justice St. Bernard (Acting)

F.M. Lake for the Appellants  
F.A. Clarke for the Respondent

February 19, 1970

Judgment.

Lewis, C.J.

On 5th January, 1969, there was a brawl at Ebenezer Village in which all the parties to these appeals were involved. It developed out of a dispute between Rose Clare Murray and Bright's grandchild, Arindella Joseph,

/in.....

in which Murray had struck Joseph and Joseph had run and made a report to her grandmother.

As a result of this brawl, Louisa Bright brought a case against Murray, Joan Lake also brought a case against Murray and Murray brought a case against Joan Lake, Louisa Bright and Arindella Joseph.

Evidence was given by all concerned, and by Cahona McCoy and Cavell Simon, witnesses called by Rose Clare Murray.

There was, as is usual in these cases, some conflict of evidence and the learned magistrate had to pick his way through the conflict and come to a decision. The case rested entirely upon credibility.

The Magistrate found that Lake had been struck by a bottle thrown by Murray and awarded her \$15.00 damages.

He found that both Lake and Bright had assaulted Murray. In the case in which they were joined along with Joseph he awarded Murray \$16.00 damages, and he dismissed Bright's case against Murray.

Bright and Murray now appeal against these judgments.

The Court has heard the four appeals together as they really arise out of one transaction and as the cases were heard together.

Two grounds of appeal have been argued. One is that the learned magistrate was wrong in finding the evidence of Rose Clare Murray to be generally more acceptable than that of Bright and Lake. In particular, with respect to the question whether or not Murray assaulted Bright or Bright

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assaulted Murray, it is said that he should have accepted Bright's evidence that Murray assaulted her and rejected Murray's evidence that Bright assaulted her. In my view, there is no reason to interfere with the learned magistrate's assessment of the evidence.

The other ground of appeal was that \$15.00 was too little for the assault on Lake, that the magistrate did not take into account the expense which she had incurred and that nothing was given for pain and suffering; and it was also urged that she ought to have been given her costs.

First on the question of damages, as I have said, this was really just a brawl and no very serious injuries were incurred and I see no reason to interfere with the award of \$15.00.

On the question of costs, I think the learned magistrate quite fairly decided that in the circumstances each party should be responsible for his own costs and made no order as to costs.

There was one further point which was taken and it concerns the form of the order in the case, Suit No. 6/69 in which Murray joined Arindella Joseph with Joan Lake and Louisa Bright. It has been pointed out by learned counsel that the incident with Joseph was complete before Lake and Bright came on the scene. Technically, therefore, a separate judgment should have been given against Joseph. In my opinion, this submission is correct. We have not got Joseph before us today, she has not been made a respondent to this appeal, but nevertheless, the Court has the power to make such amendment to the judgment

/as.....

as will meet the interests of justice. It seems to me that the correct way to amend this judgment is to strike out the award which was made against Joseph, who, after all, is a mere child, the grandchild of Louisa Bright, so that the judgment would read: "The case against Joseph is dismissed" and the awards would stand against Joan Lake and Louisa Bright alone.

Lake and Bright on the Magistrate's finding were acting together so that a joint and several award against the two of them is in my opinion quite proper.

Subject to the amendment of the order to which I have referred, I would not interfere with the judgment and the appeals should be dismissed with costs as follows:

In case No. 2 the appellant Joan Lake to pay costs \$12.60;

In case No. 2A the appellant Louisa Bright to pay costs \$12.60. No order as to costs in the 2 other appeals.

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Allen Lewis  
Chief Justice

Gordon, J.A.

I agree.

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K.L. Gordon  
Justice of Appeal

St. Bernard, J.A.(AG)

I agree.

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E.L.St.Bernard  
Justice of Appeal (Acting)