

IN THE COURT OF APPEAL

SAINT VINCENT

Magistrate's Civil Appeal
No. 1 of 1970

Between: SOLOMON NOEL Appellant

and

MILLICENT JOSEPH Respondent

Before: The Honourable the Acting Chief Justice
The Honourable Mr. Justice P. Cecil Lewis
The Honourable Mr. Justice St. Bernard (Ag.)

Appellant in person
Daniel Williams for Respondent

1970, May 26

JUDGMENT

ST. BERNARD, J.A. (Ag.)

The appellant, on the 11th August, 1969, assaulted the respondent and was sued for damages as a consequence. The matter came for trial before the magistrate on the 16th June, 1970, and the respondent was awarded damages in the sum of \$75.00 and costs. The appellant was dissatisfied and has appealed stating that the damages are excessive in the circumstances of the case.

The facts and circumstances are as follows:

On the 11th August, 1969, the respondent, a domestic servant, went to her work at a place called 'Frenches', and as she reached she heard the voices of the two children whom she cared. She heard them crying and she asked them what was wrong. The children replied that the appellant and a woman called Mrs. Mills were cursing them. The respondent said, "well, disturbance already with Solomon and Mills and not yet 7.00 o'clock."

The appellant took offence to that, used indecent language and told the respondent not to call his name. The

/appellant got

appellant got very highly annoyed, took a piece of iron, threw it at the respondent and struck her on the hip. There must have been a souffle because after that she said that he took a crank-handle and struck her three times on the back. She held on to him and he let go. She ran to the road, and he ran after her, threw her down, sat on her and began striking her on the head. She was supported in this story in nearly every aspect by a witness called Raguette.

The appellant himself stated that the respondent called him a nasty old man (perhaps that was why he got angry) and a door opener, and a man whose skin was changing. He said she enquired of the children what was wrong with them and she came and pointed her finger in his face. He admitted in his evidence that he did take a piece of iron and strike her. Before this Court, however, he stated this was not so. He struck her with a stone.

The arguments advanced by the appellant before this Court were that he is an old man and he is unemployed. Those are not reasons for reducing the damages in a court. It is true that the respondent did not state the nature of all the injuries she got, or to what extent she was incapacitated because of the assault on her, but taking the evidence as a whole the damages are, in my view, not excessive or so high as to amount to any erroneous estimate. The assault was a vicious one on a woman, and I would not interfere with the damages awarded by the learned magistrate.

The appeal, in my view, should be dismissed with costs.

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

GORDON, C.J. (Ag.)

I agree.

(K.L. Gordon)
Acting Chief Justice

P. CECIL LEWIS, J.A.

I agree.

(P. Cecil Lewis)
Justice of Appeal