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JAMAICA

IN THE COURT OF APPEAL

RESIDENT MAGISTRATE'S CIVIL APPEAL NO: 16/92

COR: THE HON. MR. JUSTICE CAREY, PRESIDENT (AG.)
THE HON. MR. JUSTICE FORTE, J.A.
THE HON. MR. JUSTICE WOLFE, J.A. (AG.)

BETWEEN	**JOYCE BLAKE**	**PLAINTIFF/APPELLANT**
AND	**MELBOURNE SPENCE**	**DEFENDANT/RESPONDENT**

Robin Smith for Appellant

Respondent in person

28th September & 21st October, 1992

FORTE, J.A.

This is an appeal from the judgment of the learned Resident Magistrate of the Civil Court in the parish of Kingston. The plaintiff/appellant had brought a claim in slander alleging that the defendant/respondent had on the 26th November, 1991 unlawfully uttered and published of and concerning the plaintiff the following false defamatory words to wit -

"You are a f------ prostitute"

At the end of the evidence, finding that the words amounted to no more than vulgar abusive language, the learned Resident Magistrate found in favour of the defendant/respondent. The facts are very simple.

The appellant who was on the relevant date a tenant of the respondent had returned home at about 8.30 p.m. She saw the respondent standing at his room door and used the opportunity to ask him about the insanitary condition of the bathroom, the use of which they both shared. She accused him of having "messed" it up, and asserted that she would not be cleaning it, as she had

already cleaned up too much mess for him. It was in this context she alleged that he responded by telling her the following words the subject of the suit:

"Go weh Joyce, you is a f------ prostitute."

In stating his defence, the respondent denied that any such publication had taken place on the 28th November, 1991 but alleged that on a day in October 1991, in response to her taunting him that he "mussi love man", he had, in fact, used the words she alleged.

Mr. Robin Smith for the appellant filed and argued one ground of appeal which reads as follows:

> "That the Resident Magistrate erred in law when he found that the words 'you are a f------ prostitute' published by the Defendant of the Plaintiff was mere vulgar abuse and did not amount to slander."

In an interesting judgment, if not for its pronouncement of legal principles, but rather for its demonstration of the learned Resident Magistrate's knowledge of Jamaican vulgarisms, the learned Resident Magistrate concluded that the context in which the words were used, amounted to nothing more than a "contest of verbal stones" and so found as he did.

The plaintiff however, denied that she had made any allegation in respect of the respondent's sexual preferences, and was in fact supported in her accusation by her "male companion" who at the time of the incident was in her apartment, and overheard all that was said by the respondent. As the evidence also revealed that this gentleman had spent sometime out of the island, and had only recently returned home, the allegation of unchaste behaviour in his presence would certainly be damaging for the appellant and for that reason we are unable to agree that the words used to the appellant amounted to mere vulgar abuse. We are of opinion, that they plainly imputed unchastity.

In so far as proof of damages is concerned, section 18 of the Libel and Slander Act provides:

> "Words spoken and published which impute unchastity or adultery to any woman or girl shall not require special damage to render them actionable."

However, having regard to the limited publication which they received, we awarded nominal damages of $200 with costs to be taxed or agreed.

For these reasons, the appeal was allowed the judgment below was set aside and judgment entered for the plaintiff as stated with costs to be taxed or agreed. The costs of appeal were fixed at $350.