

IN THE BANKS/TORRES ISLAND COURT
OF THE REPUBLIC OF VANUATU

CIVIL CASE No: 13/2001
JUDGMENT No: 07/2010

(Civil Jurisdiction)

BETWEEN: MR LUKE TULA

(Plaintiff)

AND: MR BEN REYNOLD
MR BICE MERA
MS VICTOR
MR WILLIAM SAL
MR EDWARD BADLEY
MR GODDY STANLEY
MR JUDAH FRED
MR GEORGE MAREY
MR ALAIN PHILLIP
MR PAUL SUR

(Defendants)

MATTER: PAYMENT OF COMPENSATION FOR CRIMINAL DEFAMATION

Coram: Justice David Lug
Justice Ken Edgel
Justice Phillip Morres Tabe

Clerk: Fredington Aru

JUDGMENT

Brief background pertaining to this case

The case between Luke Tula and the above named defendants is a case pertaining to claim of compensation which plaintiff Luke had lodged to Court. Luke Tula Claimed that his name had been defamed by the above named defendants that he uses sorcery to hurt a man named Arthur Kones who is from Tasmal Village-Mere Lava. The plaintiff had claimed a total of VT 50,000 (VT 5000 from each defendant) cash from the said defendants as a remedy sought for defamation of his name. This case had been registered by this court on the 15th day of May 2001. The first hearing was on the 16 of November 2006. The defendants pleaded not guilty so the matter was adjourned for another date of hearing since the defendant is also not present at the first hearing.

Issue: This Court will attempt to determine whether or not is true that the above named defendants defamed Mr. Luke Tula's name that he uses black magic to make Arthur Kones ill.

All the party's concerned in the case are served with summons and are present when the court sat to determine the matter except for Ben Reynold who was in Santo and George Marey who was already deceased.

Given the brief background we will now look at the party's evidences.

Evidence

William Sal testified in Court that it was him who gave the custom medicine to the patient Mr. Arthur Kones and relief him from his sickness. He said the evening when he washed Arthur Kones with the custom medicine; Arthur had a dream and saw Luke Tula*. Arthur got up and walk immediately the next morning He said what they did with Luke Tula was an issue inside the nakamal and not outside.

*In the custom of Mere Lava when one is washed with the custom leaf as that which William Sal did to Arthur, he would clearly see in the dream what the cause of his sickness was

Goddy Stanley testified in Court that often time; when William Sal gave custom medicine in the form of leaves to a patient, he would have a dream at night and will see what exactly the root cause of his sickness was. If it is a person who used sorcery to make the person ill, then he would clearly see all these in the dream. Goddy says what they met in the nakamal for was to ask Luke that if it was him who made Arthur ill, then he should cease doing it. He said they do not publicize his name in public nor sent messages around that Luke is responsible for Arthur's downfall. What they did is a matter inside the nakamal as a meeting to resolve and sort out injustices.

Defendant Goddy also testified in Court again that they are scared of Luke Tula as most people know; he is a man who is very knowledgeable in sorcery and witchcraft.

Defendant Paul Sur also testified in Court that it was William Sal who gave the custom medicine to Arthur and he had a dream and saw Luke Tula in the dream that night. He said what they did with Luke Tula was that they take him to the nakamal and ask him if it was him who cause Mr. Arthur to be sick then he should admit it so they could gave him some money so that Arthur would be healed from the illness. They did this because in the custom of the Island of Mere Lava, when one is sick, washed with a potion and saw someone in the dream, he should gave that person whom he saw in the dream some money. And as he did so, he would be healed. It was for this reason that the defendants called Arthur to the nakamal.

Defendant Victor-the patient's wife- testified in Court that when Arthur was sick, it was she who was taking care of him.

Defendant Edward Badley also testified in Court that Luke Tula is skillful as far as sorcery is concerned. He said it was his group that went to Luke Tula's residence at one time to take his TABU stone to the church and put it at the alter. He said the stone looked similar to a lead (Pb) and is heavy. It has a hole on top of it.

William Sal testified again In Court that what that had happened was an inside- of- Nakamal issue. They want to give him advice that if it was him who was responsible for Arthur Kones illness, then he should cease doing it. He said they gather at the nakamal as it is the place they usually go to solve trouble.

The patient Arthur Kones testified in Court that what that has happened to him was true. He said William Sal washed him with custom leaf and he recovered immediately. That same night, he had a dream and saw Luke Tula. He said in the dream he saw Luke Tula with the shirt that he will be wearing to the nakamal when the meeting will be convened for the matter which this saga concerned to be determined.

Plaintiff Luke Tula told the Court that the heavy rock like lead which Edward Badley is talking about does not belong to him. He also testified that they have sorted out already this issue with the defendants concerned and the church, however the intention for lodging this case to Court was not his-it was the former Area Council Secretary's (Mr. Danstan Massur) intention. Luke says it was him who wrote his statement.

Point of view of the Court:

In our point view after having heard all the evidences from both parties' we see and get the impression that Mr. Luke Tula is not so certain about his statement which he had lodged to Court. He also confirmed to the Court that the idea of lodging the case to the Court is not his own but was an inspiration from someone else. The evidences of the defendants seemed to be true as far as the custom of Mere Lava dictates when one is sick washed with a potion to determine the source of the illness he/she endured. The Court also found out that Luke Tula does not really intend to defend his case. He said very little and mostly remained silent throughout the Court hearing.

Last Comment from Court:

After hearing both party's; their evidences and facts presented; the Court would like to let them know that we want unity and good co-operation to prevail at all times within the community.

The Court therefore proceeds on to Judge the Case.


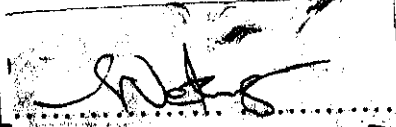

Decision of Court:

It is hereby adjudged that the claim of the plaintiff is dismissed.

- 1. Any of the parties who are aggrieved by this order has liberty to appeal to the Magistrates Court within 30 days effective as of today 13th of October 2010.**

Dated at Tasmat, Mere Lava this 13th Day of October 2010

BY THE ORDER OF THE ISLAND COURT

Justice David Lug

Justice Ken Edgel

Justice Phillip Morres Tabe

