**MWABA v ATTORNEY-GENERAL (1974) ZR 177 (HC)**

HIGH COURT (CIVIL JURISDICTION) 5

MOODLEY J

30th SEPTEMBER 1974

(Case No. HP/1082/1972)

**Flynote**

**Constitutional law - Detention - Regulation 9 (4) of the Preservation of**10 **Public Security (Detained Persons) Regulations, Cap. 106 - Removal to a police station or other place - Requirement that the detainee should be in actual physical custody of a police officer with written authority - Written authority requiring stipulation of period.**

**Constitutional law - Detention - Regulation g (4) of the Preservation of**15 **Public Security (Detained Persons) Regulations, Cap. 106 - Removal to a police station or other place - No written or verbal authority - Detainee not in the custody of a duly authorised police officer - Whether violation of Reg. 9 (4).**

**Constitutional law - Detention - Regulation 9 (4) of the Preservation of**20 **Public Security (Detained Persons) Regulations, Cap. 106 - Construction of words "other place".**

**Constitutional law - Detention - Regulation (9) 4 of the Preservation of Public Security (Detained Persons) Regulations, Cap. 106 - Construction of word, "Temporary."**25

**Tort - False imprisonment - Meaning of word "False".**

**Tort - Tort of intimidation - Whether actual loss necessary.**

**Damages - Plaintiff subjected to torture, inhuman and degrading treatment - Nature of damages.**

**Headnote**

The plaintiff claimed damages for assault, intimidation, trespass to 30 person and false imprisonment by servants of the Government of the Republic of Zambia. He claimed that on or about the 3rd November, 1972, he was unlawfully removed from his place of detention by servants of the Government and taken to and wrongfully imprisoned in an unknown place until the 8th November, 1972. In the course of his imprisonment the 35 plaintiff alleged that he was imprisoned in a filthy cell of minute proportions with little or no light or ventilation, forced to enter and remain in the nude, threatened with violence, subjected to torture and particularly to electric shock, interrogated in a dark room with bright lights directed into his eyes, punched and slapped, threatened with his life, given little and 40 insufficient food and water, and forced to remain awake for long periods of time.

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As a result of these acts of assault and intimidation by the servants of the Government the plaintiff claimed that he suffered pain and injuries and suffered loss and damage. Accordingly he claimed damages. The defendant denied the various allegations as set out in the statement of claim of 5 the plaintiff, and contended that the plaintiff was lawfully removed from his original place of detention, in accordance with reg. 9 (4) of the Preservation of Public Security (Detained Persons) Regulations, and that his detention at the place to which the plaintiff was removed was therefore lawful.

*Held:* 10

   (i)   When a detained person is removed to a police station or other place under the provisions of reg. 9 (4) of the Preservation of Public Security (Detained Persons) Regulations, Cap. 106, he would have to be in the actual physical custody of a police 15 officer with written authority by his superior officer who should stipulate the period that the detainee so removed was required at that place.

   (ii)   Since there was no written or verbal authority for the removal of the plaintiff from Kabwe police station, and he was never in 20 the custody of a duly authorised police officer from the time he was transferred from Kabwe Central Police Station till he was escorted back to Lusaka police headquarters, the removal was in complete violation of the requirements of reg. 9 (4) of the Preservation of Public Security (Detained Persons) Regulations.

   (iii)   The 25 words "other place" in reg. 9 (4) of the Preservation of Public Security (Detained Persons) Regulations cannot be construed to mean any unknown place such as a secret interrogation centre. On the contrary, on a proper construction these words can only refer to a place authorised by law which is not 30 subject to any rules of secrecy and where the detainee continues to receive the protection of the law, since the regulation requires him to be in the custody of a police officer during this period.

   (iv)   The word "temporary" in reg. 9 (4) should be taken to mean a period of hours rather than days for the purposes of an investigation. Since the plaintiff was detained from the 3rd November to the 8th November, 1972, the period of detention did not conform with the provisions of reg. 9 (4) of the Preservation of Public Security (Detained Persons) Regulations.

   (v)   The tort of false imprisonment can be committed by imprisoning 40 a person in an unauthorised place. The word "false" means "wrongly".

   (vi)   For the tort of intimidation to be committed it is necessary that the plaintiff should suffer actual loss.

   (vii)   The plaintiff has been subjected to torture, inhuman and 45 degrading treatment contrary to the protection which he enjoyed under the Constitution. Hence he is entitled to exemplary damages.

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Cases cited:

   (1)   *Chimba & Others v Attorney-General,*1972 ZR 165

   (2)   *Cobbett v Grey,* 1849 - 50 4 EX 729.

   (3)   *Rookes v Barnard,* 1964 1 All ER page 797.

Legislation referred to: 5

Preservation of Public Security (Detained Persons) Regulations, Cap. 106, reg. 9 (4)

*A  Hamir, Peter Cobbett - Tribe & Company*, for the plaintiff.

*A J  Nyangulu, Assistant State Advocate,* for the defendant.

**Judgment**

**Moodley J:** The plaintiff, Dr Davies Mwaba, by a writ of summons 10 issued on the 8th December, 1972, claimed damages for assault, intimidation, trespass to person and false imprisonment by servants of the Government of the Republic of Zambia. By a statement of claim delivered on the 8th January, 1973, the plaintiff claimed that on or about the 3rd November, 1972, he was unlawfully removed from his place of detention 15 by servants of the Government and taken to and wrongfully imprisoned in an unknown place until 8th November, 1972. In the course of his wrongful imprisonment, the plaintiff alleges that he was imprisoned in a filthy cell of minute proportion with little or no light or ventilation; forced to enter and remain in the nude; threatened with violence, 20 subjected to torture and particularly to electric shock; interrogated in a dark room with bright lights directed into his eyes; punched and slapped; threatened with his life, given little and insufficient food and water; and forced to remain awake for long periods of time. As a result of these acts of assault and intimidation by the servants of the Government the 25 plaintiff claims that he suffered pain and injuries and suffered loss and damage. Accordingly, he claims damages.

The defendant by his defence delivered on the 16th January, 1973, denies the various allegations as set out in the statement of claim and contends that the plaintiff was lawfully removed from his original place 30 of detention in accordance with regulation 9 (4) of the Preservation of Public Security (Detained Persons) Regulations, and his detention at the place to which the plaintiff was removed was, therefore, lawful.

The facts which are not in dispute are as follows:

The plaintiff was detained on or about the 17th October, 1972, by the 35 order of His Excellency the President of the Republic of Zambia and until 3rd November, 1972, had been lodged in the Mukobeko Maximum Prison, Kabwe. In the afternoon of the 3rd November 1972, the plaintiff was summoned to the office of the Superintendent of Prisons where he was seen by two police officers from Kabwe Police Station. The plaintiff's 40 wife was also visiting him at the prison on that occasion. He was informed by the police officers to collect his belongings which he did and, after bidding farewell to his wife as well as advising her to follow the vehicle which was transporting him, he was then driven to the Kabwe Police Station. He was kept at Kabwe Police Station from about 6.00 p.m. to 45

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7.30 p.m. when a gentleman from Lusaka arrived. The gentleman in question was D.W.9, a member of the Security Branch in the Office of the President. Thereafter the plaintiff was driven under escort in the direction of Lusaka. At some point along this journey, the plaintiff's head was 5 covered with a blanket. Eventually they arrived at a house in the vicinity of Lusaka. The plaintiff was confined in those premises from the night of the 3rd November, 1972, to the morning of the 8th November, 1972. During this period he was interrogated by a number of officers, among whom were D.W.9, D.W.10 who was another member of the security 10 branch in the Office of the President and also D.W. 11, a senior police officer. On the morning of the 18th November, 1972, the plaintiff was taken to police headquarters, Lusaka, where he was then seen by D.W. 11, who duly took the plaintiff to D.W.7, Assistant Commissioner of Police, Criminal Investigation Department. The Plaintiff was then interviewed by his 15 solicitor, P.W.2, and thereafter D.W.7 arranged for the plaintiff to be lodged in the Lusaka Central Prison.

The defendant categorically denied the various allegations made by the plaintiff and in this trial the defence took a most unusual course. They decided to call as witnesses members of the security branch in the Office of 20 the President with a view to specifically challenging the plaintiffs allegations. So anxious were the defence to erase any stain on the character and reputation of the members of the security branch in relation to the treatment of the plaintiff that they were prepared to depart from the usually accepted standards of secrecy surrounding their activities and 25 face the risk of public exposure and identification.

The plaintiff testified that from the moment he was forced into a motor vehicle outside Kabwe police station he was covered by a blanket, made to lie in a horizontal position and sat upon by a security guard and driven all the way until they arrived at premises, the exact location of 30 which is not known. The plaintiff calculates that these premises were situated somewhere off the Kafue Road in the Chilanga area of Lusaka. The members of the security branch testifying for the defence stated that, because they were bound by their official oaths of secrecy, they were not in a position to reveal the exact location of these premises. However, 35 D.W.11, police officer, did say that the premises were situated outside Lusaka. Defence witnesses described this place as an interrogation centre and said that the purpose of removing the plaintiff from Kabwe to this centre was to interrogate him in connection with his political background. The plaintiff alleges that upon arrival he was escorted into the 40 building with his head still covered and then confined in a tiny cell which appeared to be a toilet that was not functioning and with little or no ventilation or light. It was with great difficulty that he tried to lie down. The place was in a filthy state. Subsequently he was taken into a room which had a coffin draped with a black cloth on a table and when 45 interrogation began bright lights were focussed into his eyes. Thereafter on successive days he was subjected to continuous interrogation by D.W.9, D.W.10 and D.W.11. D.W.2, a security guard was assigned to keep watch over the plaintiff, escort him from and back to the cell and to look after his needs. The plaintiff contends that there was a systematic campaign

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by D.W.9, D.W.10 and D.W.11 to break him down by incessant and prolonged interrogation and when he was not co-operative he was threatened and physically assaulted, deprived of food and facilities to clean himself. He was further subjected to electric shocks by an instrument which was strapped to his wrists and connected by a wire to a plug. As a 5 result he was subjected to periodic shocks which brought on violent vomiting as well as purging and periodically he was taken back to the cell where he found himself covered with filth. He was refused permission to clean himself and take baths. The plaintiff's allegations of the various forms of torture to which he was subjected amount to what may be best 10 described as a nightmare but, nevertheless, he was able by sheer dint of mental control to prevent himself from going stark raving mad and was just able to keep his wits about him.

The defendants deny all these specific acts of torture and ill - treatment. The Officer in Charge of the interrogation, D.W.1, who had not himself 15 taken part in the interrogation, testified that the officers under his control were expected to conduct themselves correctly when interrogating suspects. They did not use any form of electric devices to shock persons being questioned. There was no provision for electric devices to shock persons being questioned. There was no provision for electric fittings for 20 such devices and no such equipment was in existence in the premises. Neither were suspects beaten or subjected to any form of physical assaults. When suspects were transported they were covered by blankets for the sake of the safety of the officers and the suspects themselves. This was entirely for security purposes. Suspects were provided with meals but 25 there may be occasions when a suspect may miss a meal because of prolonged questioning. It was against instructions for officers to undress suspects when interrogating them or to photograph them in a state of undress. There were no facilities for taking photographs in the premises, which had sufficient ventilation and lights. The security branch worked in 30 consultation with the police. They had no powers to arrest or detain and normally police took part in interrogations in case facts emerging from such interrogations resulted in criminal proceeding. Their organisation was merely concerned with the interrogation of suspects. The plaintiff's complaint seems to be levelled largely against D.W.9, who appeared to 35 be in actual charge of the interrogation from the beginning and, to a lesser degree, against D.W.2, D.W. 10 and D.W. 11.

When one looks at the evidence of the defence witnesses, there are important discrepancies concerning the length of time when the plaintiff was interrogated. D.W.9 appeared to suggest that the interrogation of the 40 plaintiff ended about 1700 hours and thereafter the plaintiff was taken to his cell where he went to sleep. D.W.10, however stated that the plaintiff was interviewed during the day as well as the evening up to about 2200 hours. In fact D.W.9 took part in the interrogation of the plaintiff during the evening of the 6th November from 1900 hours to 2200 hours and, on 45 the 5th and 7th November, he took part in interrogating the plaintiff during the day and in the evening, ending at 2200 hours. At that time he was in the company of D.W.11. D.W.2, D.W.9 and D.W.10 suggested that

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the plaintiff during the period of his confinement at the interrogation centre, was in good spirits and happy but D.W.11 stated that he did find the plaintiff to be in a depressed state and that although he himself did not see the plaintiff actually eat, he presumed that the plaintiff was fed 5 during those intervals when they broke for meals. He said that they took the food separately and that the security guard took food to the plaintiff but this again varies from what D.W.10 testified, namely that on these occasions the plaintiff was seen to be eating separately In the interrogating room. Again D.W.2, the security guard, appeared to suggest that the 10 interrogation of the plaintiff ended at about 5 p.m. on most days apart from one occasion. Contrary to what D.W.2, D.W.9 and D.W.10 stated, D.W.11 testified in cross - examination that in the course of interrogating they found that the plaintiff was in fact purging. It was suggested that the plaintiff be given a bath but he was not in fact given one because he 15 had been informed that he was to see his solicitor the next day.

The greatest difficulty this court has had to face in the course of the trial is the refusal on the part of the defence witnesses, on the grounds of their oaths of secrecy, to describe the external and internal features on the premises where the plaintiff had been confined and interrogated. The 20 reason for this is understandable but, nevertheless, where the court is faced with and is expected to resolve such serious allegations, one would have expected the defendant, since his most material witnesses were prepared to face the risk of exposure as officers of the security branch, to invite the court to inspect the premises in question in order to satisfy 25 itself that there was not one shred of truth in the plaintiff's allegations. Merely to come to court and testify that there was no truth in the evidence of the plaintiff concerning the premises; that the cell was clean; that there was adequate ventilation as well as lights; that there were no coffin, electric fittings for shocking suspects, and bright lights in the 30 interrogation room; and that there were bathing and eating facilities for suspects as well as facilities for exercise are nebulous denials which are far from convincing. The very fact that contradictory evidence was given by the witnesses for the defence on very material particulars portrays the weakness of the defendants' case. The circumstances under which the 35 plaintiff had been removed to this unknown interrogating centre and the period he was held incommunicado clearly shows that those responsible were not interested in the constitutional rights of the plaintiff. The evidence of P.W.2, the plaintiff's solicitor, shows that had he not made inquiries as to the whereabouts of the plaintiff from the police and his 40 threat to institute legal proceedings, the possibility remains that the plaintiff may well have been confined for a much longer period at the interrogation centre.

It was submitted on behalf of the plaintiff that it was entirely the intervention of the plaintiff's solicitor that had compelled those responsible 45 to produce the plaintiff at Police Headquarters, Lusaka, where he was interviewed by P.W.2. The fact that the plaintiff did not complain about his ill treatment to D.W.7 at police headquarters in the presence of D.W.2 is understandable. The plaintiff had been removed from an authorised detention centre and confined incommunicado in an unknown place

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from the 3rd to the 8th November. He was subjected to a most terrifying experience. One can understand that he would have preferred to have discussed his problems in confidence with his solicitor but he was prevented from doing so. It is also understandable that he was reluctant to make his complaints known on that occasion because of his fears that he 5 might be returned to the interrogation centre. P.W.2 states that at the time of the interview the plaintiff appeared to have difficulty in collecting his thoughts and that he was tired. Further, he appeared to be depressed and in some distress. The plaintiff had stated in the presence of the police officers that he was afraid to say anything to his solicitor as he had 10 been threatened with a return to the "beating house". P.W.2 was not able to obtain full instructions and left after being assured that the plaintiff would be returned to a prison. I am therefore satisfied on the evidence before me that the plaintiff's confinement at the interrogation centre was terminated and his subsequent removal to a Lusaka Prison was due to 15 the efforts of his legal adviser acting on the instructions of the plaintiff's wife, who had last seen her husband on the 3rd November, 1972, at Kabwe and since then had no news of his whereabouts. Thus, on a balance of probabilities the plaintiff has established to my satisfaction the truth of his allegations concerning what had transpired at the interrogation 20 centre.

Mr Nyangulu, for the defendant, submits that the plaintiff was lawfully removed from his original detention place and his detention at the interrogation centre was, therefore, lawful. He argues that regulation 9 (4) of the Preservation of Public Security (Detained Persons) Regulations 25 , Cap. 106, provides for such removal to a place other than a police station. He relies on the words "or other place" as indicated in this regulation. Regulation 9 (4) reads as follows:

   "If a police officer not being below the rank of Assistant Inspector certifies verbally or in writing that a detained person is required at 30 a police station or other place in connection with the investigation of an offence or with the preservation of public security, the officer in charge shall permit the temporary removal to the police station or other place of such detained person in the custody of a police officer duly authorised in writing in that behalf by the said superior 35 officer for such period as the said superior police officer may require."

Mr Nyangulu argues that the words "or other place" do not necessarily refer to a detention centre authorised by the President, because if that were so then the legislature would have specifically used the words 40 "or authorised detention centre" in this regulation. He therefore argues that the "other place" to which the plaintiff was conveyed was lawful in that it conformed with regulation 9 (4). He further submits that, in accordance with this regulation, it was perfectly proper to interrogate the plaintiff in connection with the investigation of an offence or with the 45 Preservation of Public Security and the interests of public safety and security required the plaintiff to be interrogated in this "other place".

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Mr Hamir for the plaintiff, on the other hand, disagrees with the interpretation placed by Mr Nyangulu on the words "other place" in regulation 9 (4). Mr Hamir submits that the operative words in this regulation are "the officer in charge shall permit the temporary removal". 5 He argues that the word "temporary" should not be construed as meaning a matter of days for purposes of investigation but rather a matter of hours and, further, the place to which the detainee in those circumstances could be removed to must be an authorised detention centre. Quite clearly, he argues, this is what was intended by the legislature. While 10 emphasis must be placed upon the safety and security of the State, the liberty of the individual was equally sacred. Mr Hamir argues that the words "other place" cannot be expected to refer to a place where a person could be held incommunicado and deprived of his constitutional rights. Regulation 9 (4) further stipulates that, when a person has been 15 temporarily removed, he should be in the custody of a police officer. This was not so in the plaintiffs case. Finally, Mr Hamir relies on the *dicta* of Scott, J, in *Chimba and Others v The Attorney-General* [1], where the facts were on all fours with the present case. Scott, J, in that case, held that the word "temporary" should be taken to mean a period of hours for the 20purpose of an investigation. He also held that the word "false", where an allegation of false imprisonment was alleged, meant "wrongly" and that this tort was committed by imprisoning a person in an unauthorised place.

I reproduce here the relevant passage from the judgment of Scott J, in the case of *Chimba and Other*s v *The Attorney-General* [1] *at* page 109:

   "I also 25 find that the five plaintiffs were falsely imprisoned for the days they were in the hands of the police at the unknown place. 'False' in this context means 'wrongly' and this tort is committed by imprisoning a person in an unauthorised place. (See *Cobbett* v *Grey* [2]). There is no need to prove actual damage. The authorised 30places are the prisons at Lusaka, Mumbwa, Kabwe and Mpika, although inter - prison transfer is permissible. The imprisonment of the plaintiffs elsewhere in the custody of the police was clearly and blatantly wrongful. The Commissioner of Prisons is responsible for the proper treatment of detained persons in places of detention 35and the removal of a detained person under regulation 9 (4) of the Preservation of Public Security (Detained Persons) Regulations from the custody of the appointed officer in charge into the hands of the police can only be a temporary removal. The word 'temporary' qualifies the expression 'for such period as the said superior 40officer may require' and in my opinion should be taken to mean a period of hours for the purpose of an investigation only so that the protection afforded by the regulations is not denied to the person in question. The treatment of the plaintiffs was made doubly wrongful because of the way they were held and the deprivation 45suffered as well as the mental and physical treatment to which they were subjected. If a person is required for questioning it seems to me he must be returned to his place of detention to receive his daily rations and to sleep. His conditions of detention must be in conformity with the same regulations."

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For the purposes of this judgment I accept the construction placed by Scott, J, on the word "temporary", namely that it should be taken to mean a period of hours, rather than days, for the purposes of an investigation. I also adopt Scott, J's construction of the word "false" as meaning "wrongly" and that the tort of false imprisonment can be committed by 5 imprisoning a person in an unauthorised place.

Coming to M Nyangulu's contention that "or other place" could be interpreted to include the interrogation centre to which the plaintiff was conveyed, I am of the opinion that these words must be viewed within the context of the regulation in which they appear. Looking at regulation 9 (4), 10 it is apparent that, if a detained person is removed to "a police station or other place" for purposes of investigation, it is envisaged that the detainee should continue to be in the custody of a police officer at the police station or other place and that the police officer concerned must be duly authorised in writing in that behalf by his superior, who should not be 15 below the rank of an assistant inspector for such period as the said superior police officer may require. Quite clearly, therefore, even if one were to accept Mr Nyangulu's interpretation that the interrogation centre to which the plaintiff was conveyed could be covered by the words "or other place" in conformity with regulation 9 (4), the plaintiff 20 would have to be in the actual physical custody of a police officer with written authority by his superior officer who should stipulate the period that the detainee so removed was required at that "other place". When one looks at the facts in the present case, we find that the only written communication in this connection was from the divisional criminal 25 investigation officer, Kabwe, to the officer in charge of Mukobeko Maximum Prison, stating that the plaintiff was required at Kabwe Central Police Station and in accordance with that directive the plaintiff was escorted to Kabwe Central Police Station by two police officers. At that stage there was no indication in the communication that the plaintiff was required at 30 any place other than Kabwe Police Station. Thereafter we observe that the Kabwe police handed the plaintiff over to the officers of the Security Branch, who were not police officers. The plaintiff was removed from Kabwe to the Lusaka area and confined in an unknown place from the 3rd November to the morning of the 8th November in complete violation 35 of the requirements of regulation 9 (4). There was no written or verbal authority for his removal from Kabwe and he was never in the custody of a duly authorised police officer from the time he was transported from Kabwe Police Station till the morning of the 8th November, 1972, when he was escorted to police headquarters in Lusaka. To compound this 40unlawful conduct, the "temporary" removal continued from the 3rd November to the 8th November when due to efforts by the plaintiff's legal adviser, those responsible for holding the plaintiff at the unknown place were compelled to produce him at police headquarters. Throughout the period from the 3rd to the 8th November, 1972, the plaintiff was 45 never in the actual physical custody of a police officer as required by regulation 9 (4). Thus, in my opinion, the words "other place" which appear in regulation 9 (4) cannot, as argued by Mr Nyangulu, be construed to mean any unknown place such as a secret interrogation centre.

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On the contrary, it is my view that, on a proper construction, these words can only refer to a place authorised by law which is not subject to any rules of secrecy and where the detainee continues to receive the protection of the law, since the regulation requires him to be under the custody of a 5 police officer for the period he is temporarily removed from an authorised place of detention. I am satisfied that this regulation did not authorise a person to be detained overnight or for a matter of days in a place other than an authorised place of detention. Accordingly, it is quite clear that the period the plaintiff was detained in this "other place" did not 10 conform with the provisions of regulation 9 (4) of the Preservation of Public Security (Detained Persons) Regulations.

The plaintiff claims, *inter alia*, damages for intimidation. Once again I adopt, for the purposes of this judgment, Scott, J's dictum on this matter in the case of *Chimba and Others v The Attorney-General* [1]*.* The 15 passage at page 110 is as follows:

   "This tort (meaning intimidation) as Lord Devlin said in *Rookes v Barnard* [3] can take one of two forms: (1) intimidation of the plaintiff himself, and (2) intimidation of other persons to the injury of the plaintiff. That case was concerned with the second 20 category. The plaintiffs before me plead the first category namely intimidation on themselves, but intimidation *per se* would not appear to be an actionable wrong giving rise to a claim for damages although it might support an application for an injunction, unless loss had been occasioned. The learned editor of the 15th Edition 25 of Salmond on the Law of Torts says 'Although there is little authority on the point, it cannot be doubted that it is an actionable wrong intentionally to compel a person, by means of a threat of an illegal act, to do some act whereby loss accrues to him' - the reason for this is clear; such person has wrongly been made 30 to suffer loss and should be compensated for it. The present plaintiffs have not suffered loss, nor acted to their economic detriment."

I find that the tort of intimidation in this case was not committed against the plaintiff, in that he has not suffered any actual loss. Judgement 35 is therefore entered for the plaintiff against the defendant on the grounds of assault, trespass to person and false imprisonment. I have no doubt that the plaintiff has been subjected to torture, inhuman and degrading treatment, contrary to the protection which he enjoyed under the Constitution. Further, the relevant provisions of the Preservation of Public 40 Security (Detained Persons) Regulations, Cap. 106, were breached by persons who were not even police officers, in whose prolonged custody the plaintiff was held incommunicado. I must in unqualified terms condemn the treatment meted out to the plaintiff. I take the view that this is a case demanding of exemplary damages. I therefore award the round 45 sum of K8,000 as damages for the plaintiff and judgment is entered accordingly with costs.

*Judgment for plaintiff with costs*

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