

In the Court of Appeal of the Democratic  
Socialist Republic of Sri Lanka

CA 1269/96F  
DC Horana 3316/M

1. Y D Jayasena
  2. C. Wijegunawardena
  3. T A Charles
- All of Godaporagaha Junction,  
Millawa

**Defendant-Appellants**

Vs

Yakdehige Don Edwin Charles  
Godaporagaha Junction,  
Millawa

**Deceased-Plaintiff-Respondent**

Yakdehige Asoka Rohana Jayathilaka

**Substituted-Plaintiff-Respondent**

Before: A W A Salam J

Parties absent and unrepresented

Decided on: 01.06.2011.

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A W A Salam,J

**T**his is an action for damages resulting from the bodily pain and discomfort caused to the plaintiff by the defendants. The plaintiff's case is that the defendants pulled him out of his boutique by placing a rope around him and thereafter dragged him to the lamppost in front of his boutique and threw red ants at him to be seen by a crowd of around 200 to 300 people most of whom were schoolchildren from the vicinity who were returning from school. The plaintiff claimed that the acts of the defendants were aimed at bringing him into ridicule and contempt in the eyes of the general public. The defendants denied the allegation.

At the trial the plaintiff gave evidence and his version was sufficiently corroborated by his wife. The wife of the plaintiff satisfactorily identified the defendants as being the persons who were present at the scene where her husband was tied up and subjected to the torture complained of.

Even though the 1st defendant in this evidence stated that the plaintiff was seen drunk almost every day at Millawa Junction,

this position was never put to the plaintiff or his wife when they testified.

In the course of presenting the case on behalf of the plaintiff it came to light that the he had made a prompt statement to the police with regard to the alleged torture. The learned trial judge having analyzed the evidence adduced on behalf of both parties accepted the version of the plaintiff as being more probable. The findings of the learned district judge on the pivotal questions are based on the credibility of the witnesses who testified before him. The approach adopted by the learned district judge in deciding as to which version is more probable does not appear to be blamed worthy.

Taking into consideration the evidence led at the trial and the findings of the learned district judge, I see no reason to interfere with the findings of the learned district judge. Consequently, this appeal stands dismissed subject to costs.

Judgment and decree entered in the lower court are affirmed.

Judge of the Court of Appeal