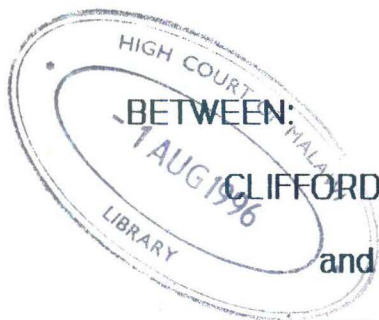


IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
CIVIL CAUSE NUMBER 1302 OF 1994



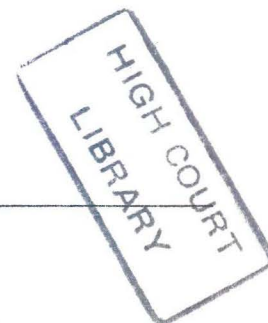
BETWEEN:

CLIFFORD D.M. KONDOWE PLAINTIFF

and

THE ATTORNEY GENERAL DEFENDANT

CORAM: E.B. TWEA, REGISTRAR
Masumbu, Counsel for the Plaintiff
Defendant, Counsel absent



RULING

The plaintiff brought an action claiming damages for wrongful arrest and detention.

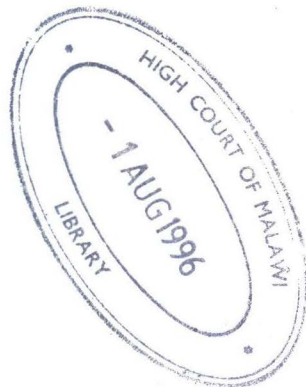
The plaintiff told the court that in about August 1992, he was having a drink with colleagues. Later he learnt that Police were looking for him. On 29 August 1992, he reported at Soche Police where he was accused of being a multi-party advocate and placed in custody. He was in custody until 14 January 1994.

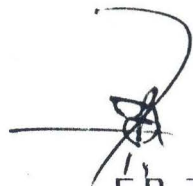
It was in the plaintiff's evidence that when he was in custody he contracted blood diarrhoea and then malaria. Both times despite prison authorities informing the Police, he was not taken for any treatment at all. It was his relatives who made effort to find medicine and he was duly treated. This is the evidence on which this court is called upon to make the assessment.

It is trite law that the court can only give damages on matter pleaded. In this case, the plaintiff's case was for exemplary damages for wrongful arrest and detention, i.e. false imprisonment only. I therefore feel constrained in considering damages for loss of employment. Accordingly I will not grant any damages on this head.

The question of damages is discretionary. I have examined the submissions by counsel and also the circumstances under which the plaintiff was held. I am inclined to view this case in the light of the cases of Charles Mkandawire V Attorney General CC 1364 of 1993 and Winfred Mphande vs. Attorney General CC 885 of 1993. The plaintiff was never taken to Court and he was treated with indifference by Police and also the length of his imprisonment. I would grant him K84,000 damages for false imprisonment plus costs.

PRONOUNCED IN CHAMBERS this 28th day of June, 1996, at Blantyre.




E.B. Twea
REGISTRAR

