

Simon Suppiah Sunmugam v Chua Geok Teck and another
[2012] SGHC 73

Case Number : Suit No. 922 of 2010
Decision Date : 05 April 2012
Tribunal/Court : High Court
Coram : Tay Yong Kwang J
Counsel Name(s) : Alain A Johns (Alain A Johns Partnership) for the plaintiff; Gary Leonard Low and Emmanuel Duncan Chua (Drew & Napier LLC) for the defendants.
Parties : Simon Suppiah Sunmugam — Chua Geok Teck and another

Tort – assault and battery – wrongful arrest

5 April 2012

Tay Yong Kwang J:

Introduction

1 This case involves a claim for damages for assault and wrongful arrest. The plaintiff, a private investigator, claimed that he was doing surveillance on a subject on 10 March 2009 when he was assaulted and then wrongfully arrested by the first defendant, an auxiliary police officer (“APO”) employed by the second defendant.

2 The trial proceeded on liability as well as damages. For the plaintiff’s case, a total of eight witnesses (including the plaintiff) testified, four of them by way of affidavit of evidence-in-chief (“AEIC”) and four by way of oral testimony in court. The first defendant and two other witnesses testified for the defence.

3 At the conclusion of the trial, counsel for the parties requested time for written submissions to be made. Directions were then given for the plaintiff to file his written submissions, followed by the defendants’ response and finally the plaintiff’s reply. After considering the three sets of written submissions tendered sequentially, I am of the opinion that the plaintiff fails in his claim against both defendants.

The plaintiff’s case

4 The plaintiff, who was born on 8 April 1947, is the managing director of Simmon Security and Investigation Services Pte Ltd (“Simmon”), a company engaged in the business of private investigations. The company is registered under the Private Security Industry Act (Cap 250A, 2008 Rev Ed).

5 In early March 2009, Simmon was engaged by a client to conduct surveillance on her husband (“the subject”) who was suspected of having an adulterous relationship with another female. That female was residing in an apartment block located at the junction of Dalvey Road and Stevens Road.

6 On 5 March 2009, Simmon commenced surveillance on the subject and found out that he had visited one of the apartments in the said apartment block. On 10 March 2009, the plaintiff,

anticipating that the subject would be visiting the female at her residence, drove to Dalvey Road and parked his car at a recessed area along that road at about 3pm. He then walked to Stevens Road and sat down on the raised concrete footpath along Stevens Road between Stevens Close and Dalvey Road. He had a black pouch with him and was looking generally towards Dalvey Road.

7 The plaintiff claimed that he was not aware at that time that the Israeli Embassy ("the embassy") was located at the end of Stevens Close, some 400 metres away from its junction with Stevens Road. The embassy actually occupies a plot of land that straddles Stevens Close and Dalvey Road. At about 5pm that day, a member of the embassy's security staff approached the plaintiff from Stevens Close and asked him what he was doing there. The plaintiff replied casually that he was waiting for someone and, being curious, he then asked the male Caucasian security officer whether he had done anything wrong and why he was being questioned. The security officer merely mentioned "security" and then walked away.

8 The security officer called the embassy's security post and the first defendant, a uniformed officer stationed at the embassy, was despatched to the scene. He arrived a few minutes later on a bicycle and parked it on the raised footpath about two metres away to the left of the plaintiff. The first defendant squatted next to the plaintiff, who was still sitting on the raised footpath, blocking the plaintiff's view of Dalvey Road, and asked the plaintiff in an aggressive and antagonistic manner as to what he was doing there. He also pointed his right index finger at the plaintiff's face. The plaintiff replied that he was waiting for someone and asked the first defendant if he had done anything wrong. At that point in time, the plaintiff's colleague, Muhammad Rasyid ("Rasyid"), contacted the plaintiff over the radio set to inform him that the subject had arrived at the female's residence. Rasyid had been conducting surveillance along Killiney Road where the subject's place of business was. The plaintiff did not respond to the radio message as the first defendant was in front of him questioning him in a raised voice. The first defendant responded to the plaintiff's question by saying that that location was "a sensitive place". The plaintiff asked him why Stevens Road was a sensitive place and what he meant by "sensitive".

9 On hearing the plaintiff's retort, the first defendant became furious and told the plaintiff that he could be a suspected terrorist. The plaintiff was taken aback and asked if he looked like a terrorist. Realizing that he was probably not able to continue with the surveillance work, he then contacted Rasyid to meet him at that location, intending to pass some instructions to Rasyid as the latter was very new on the job at that time.

10 Upon hearing the plaintiff asking if he looked like a terrorist, the first defendant flew into a rage. He accused the plaintiff of being violent and aggressive and grabbed the sleeve of the plaintiff's T-shirt, tugging at it with such great force that the sleeve tore.

11 The plaintiff immediately stood up. As soon as he was on his feet, the first defendant, without any warning, handcuffed his right wrist. The plaintiff was shocked at being handcuffed but did not struggle as he realized that no good would come out of struggling. He implored the male security officer, who was standing nearby, to witness what the first defendant was doing and said that there was no reason to assault him. The security officer remarked nonchalantly that he did not see what was happening.

12 The first defendant then dragged the plaintiff to the verge of the raised footpath, swiped him off his feet and slammed him onto the concrete footpath. The plaintiff felt a sharp pain at his head and knees and became dizzy. The first defendant then pinned the plaintiff down with his knee and bodyweight and tugged his handcuffed right hand, causing pain to the plaintiff. While the plaintiff was lying prostrate on the ground in pain, the first defendant continued to pull the handcuff, causing pain

to the plaintiff's right shoulder, arm and wrist.

13 The first defendant then attempted to get hold of the plaintiff's black pouch which he was still holding in his left hand and which contained his video recorder. He did not ask the plaintiff what the black pouch contained. If he had done so, the plaintiff would have told him that he was a private investigator and that there was a video recorder in the said pouch. He told the first defendant that he was in pain and that what he was doing was uncalled for and wrong. The first defendant responded with a vulgarity, uttering "lan chiau" (Hokkien for penis) and continued tugging the handcuff.

14 The plaintiff was traumatised by the first defendant's actions as he had never been treated in such a manner before. He felt degraded, helpless and completely humiliated. The first defendant had totally immobilized him and was ignoring his "agonising and unbearable pain". Each time he tried to turn his head to speak to the first defendant, the latter would pull on the handcuff, causing the plaintiff greater pain. In the plaintiff's estimate, the time that passed from the moment the first defendant approached him while he was seated on the raised footpath until the moment he was assaulted was about 15 to 20 seconds. He estimated that he was restrained by the first defendant for about 30 minutes.

15 Not long after this, Rasyid arrived at that location. He did not know what to do. He asked the first defendant to release the plaintiff. As the first defendant did not do so, Rasyid telephoned the police. The message in the first information report stated, "One CISCO officer beat my man. No need ambulance". A group of passers-by had gathered to see what was happening, causing the plaintiff great embarrassment and humiliation as they must have thought that the plaintiff was an "iniquitous criminal" who had committed some "grotesque crime".

16 Two police officers arrived at the location. They were SSG Alvin Kum and CPL Muhd Taufiq. At their behest, the plaintiff was allowed to get back on his feet. SSG Alvin directed the first defendant to remove the handcuff and he complied. However, CPL Taufiq grabbed the plaintiff's T-shirt near the collar and continued holding on to the plaintiff until he was placed in the ambulance which arrived subsequently. When the plaintiff asked whether it was necessary to hold him as it was embarrassing, CPL Taufiq explained that he had no choice because the plaintiff was under arrest. Another police car arrived later.

17 Being a heart patient and a diabetic dependent on insulin, the plaintiff felt faint and giddy. His feet wobbled under him. He then told the police that he needed to go to the hospital. He was in a daze. His limbs hurt and his forehead was bleeding. He noticed that there was a tear in his jeans.

18 When the ambulance arrived, the paramedics examined the plaintiff. In their ambulance report, the paramedics noted that there was swelling over the plaintiff's right knee and there were abrasions over the left elbow and the forehead. They also noted that the plaintiff complained of pain over his right wrist and right knee. He requested to see a doctor.

19 Upon hearing his request, the first defendant smiled sarcastically, pulled up his trousers and told the paramedics that he too was injured. He then lifted both his hands, claiming that he was injured. The paramedics ignored the first defendant who then sneered at the plaintiff and remarked that the alleged pain was a bluff and that the plaintiff was putting on a show.

20 The plaintiff recalled that there were four police officers and two paramedics at the scene that day. Another two police officers arrived in another police car after the first two (see [\[16\]](#) above). These were SI Rashid and SI Ng Swee Hong. Apparently, a third police car arrived after the plaintiff

left the scene in the ambulance for the hospital.

21 At the Singapore General Hospital ("SGH"), Dr Shanaz Matthew Sajeed examined the plaintiff and found the following injuries on him:

- (a) a 2cm abrasion over the right forehead;
- (b) mild bruising of the right forearm;
- (c) mild bruising of the left wrist;
- (d) a minor abrasion over the right knee cap; and
- (e) a minor abrasion over the left upper forearm.

The plaintiff's jeans and T-shirt were torn.

22 After the medical examination, DSP Heng Chih Yang interviewed the plaintiff. The plaintiff found out subsequently that the incident was classified as an offence of voluntarily causing hurt.

23 The plaintiff claimed that there was no reason justifying his arrest and that the arrest was therefore unlawful. Further, he claimed that the force used by the first defendant in effecting the arrest was unjustified. He did not put up a struggle and did not taunt the first defendant. He was also not rude towards the first defendant. His right hand remained handcuffed for about 30 minutes with the first defendant using his knee and body weight to pin him down on the hard ground.

24 All the actions by the first defendant were done while performing his functions as an APO in the employ of the second defendant. The second defendant was therefore vicariously liable for his actions.

25 Where damages were concerned, the plaintiff claimed that he was trembling and distressed when he arrived at SGH. All his energy had been sapped from him and he felt degraded and embarrassed. His injuries took three weeks to heal fully. During that period of time, the injuries at his forehead and forearm were particularly embarrassing to him as people would often ask how he sustained those injuries and he did not know how to reply to them.

26 Even after the physical injuries had healed, he "continued to experience the emotional and psychological disturbances". He would become distressed and jittery whenever he saw a police car or a police officer. This caused him a "significant increase in stress" when he undertook surveillance work. He would also deliberately avoid the vicinity of Stevens Road for about a year after the incident. He asserted that the first defendant's actions were "calculated to cause me maximum pain, suffering, embarrassment and deprivation" and that he had succeeded in doing so because the plaintiff was "thoroughly traumatised" and left in a "state of desolation". The trauma did not just vanish after his release but "continued for a substantial time thereafter".

27 The plaintiff claimed aggravated damages as the first defendant's actions were a "gross affront to my personal dignity and integrity" and were "heinous and highhanded and designed to cause maximum physical pain, humiliation, distress and embarrassment". He also claimed exemplary damages because the first defendant had acted wilfully and in an arbitrary manner "in total and utter disregard to the Rule of Law". There was also an absolute lack of remorse on the part of the first defendant.

28 In respect of special damages, the plaintiff acknowledged that his claim was "quite miniscule"

as it involved only a total of \$300 as the estimated cost of replacing the torn jeans and T-shirt and his lost spectacles.

29 The plaintiff was a former police officer who had spent more than 30 years in the police force before taking early retirement in 1999 as an Assistant Superintendent ("ASP") in order to pursue a second career as a private investigator. He received numerous awards "for all his exemplary performances" in the police force (see AB 65 and 66, printed from Simmon's website). His police work included arrest of gang members and shoot-outs with armed criminals. He was a trainer in the Police Academy between 1993 and 1999. He was therefore respectful of persons in uniform and of authority and would never and did not taunt or push the first defendant who was in uniform that day. He claimed that he did not identify himself to the first defendant as a private investigator as the exchange of words took place very fast and was over in about 15 seconds. By the time the first defendant grabbed his T-shirt, it was too late to identify himself as he was already under arrest and could not be released without the authority of a police officer of or above the rank of SGT. He also wanted to see how far the first defendant would go, wondering what the first defendant was going to do next. For the next 30 minutes or so, while pinned down by the first defendant, he did not identify himself as he was in a daze. His colleague, Rasyid, also did not identify himself or the plaintiff when he arrived at the scene. The plaintiff surmised that it could be because Rasyid was then new to the job.

30 The plaintiff added in cross-examination that he requested the nurse at SGH not to ward him. He had to go to Jakarta that evening and was prepared to bear with the pain. He had instructed his staff to bring his luggage from the office and to pick him up from SGH to go to the airport. He rushed to the airport still attired in his torn clothes. A colleague took a video footage of him in his torn clothes there. He then went to change his clothes in a toilet at the airport before boarding the plane. One of his friends had passed away about one month before the incident and the widow was waiting for the plaintiff to bring her some money. He wanted to go to Jakarta that evening to give her the money and to console her.

31 He tried to forget about the incident and had no intention to sue. After suffering physically and emotionally for about one year, the plaintiff decided to take it off his chest by seeking legal advice. On 10 December 2010, this action was commenced.

32 The plaintiff called Rasyid and another colleague, Ms Tham Mei Yong, to testify on his behalf. He also called as his witnesses the first two police officers at the scene, a senior police officer who arrived at the scene after the ambulance had left for SGH (DSP Heng Chih Yang), one of the paramedics and Dr Shanaz Matthew Sajeed of SGH.

33 Rasyid testified that around 3pm on 10 March 2009, he began his surveillance work at Killiney Road. He followed the subject but lost sight of him along the way. He then called the plaintiff on the radio set and he instructed Rasyid to proceed to Dalvey Road. He arrived at Dalvey Road at about 4.15pm, left his motorcycle near a bus stand along Stevens Road and walked towards the plaintiff's car along Dalvey Road. The plaintiff then called Rasyid and told him to be at the bus stand. As he was walking back to the bus stand, he saw the subject driving into Dalvey Road. He immediately called the plaintiff but received no response from him. At about 4.20pm, the plaintiff informed Rasyid to go to where he was.

34 When Rasyid went to meet the plaintiff, he observed the first defendant pushing the plaintiff on at least three occasions and pulling the plaintiff's T-shirt. He also saw the security officer next to the first defendant. The plaintiff was talking to the two men there but Rasyid was not able to hear the conversation.

35 The plaintiff's right hand was handcuffed. The first defendant then swiped the plaintiff's feet, pinned him to the ground and crouched on the plaintiff who was lying prostrate and appearing helpless. The first defendant was tugging at the handcuff. The plaintiff did not struggle. Rasyid asked the first defendant why he was doing this to the plaintiff and asked him to release him. The first defendant ignored him.

36 The plaintiff requested Rasyid to call the police and to ask for an ambulance. Rasyid called the police and requested assistance and an ambulance. At trial, Rasyid corrected himself and said he only called the police and not the ambulance. When the police asked him whether an ambulance was required, he told them "No". He saw no need for an ambulance as the injuries did not look very serious. He also said that the conversation with the first defendant was after he had called the police. He then called Ms Tham Mei Yong for instructions. As the incident happened more than two years ago, he was unable to recall all the details.

37 The police arrived and the first defendant released the handcuff on the plaintiff's right hand. The ambulance arrived shortly thereafter and the paramedics attended to the plaintiff who appeared unsteady on his feet. As the plaintiff was relating the incident to the police and the paramedics, the first defendant taunted the plaintiff and remarked sarcastically that he too was injured. The first defendant wanted to speak to Rasyid for a few seconds but he refused to speak to him as he felt sad about the incident and decided he should not be making any comments. The plaintiff was then taken away by the ambulance. He was "in a pitiful state".

38 The next day, at the prompting of the plaintiff, Rasyid wrote out an account of the incident. Sometime after the incident, the plaintiff and he returned to the scene with a photographer to re-enact the manner in which the first defendant had restrained the plaintiff. The photographs of the re-enactment were tendered as evidence. According to the photographer, whose evidence was dispensed with by consent, the re-enactment took place on 15 March 2009.

39 Rasyid did not think of identifying the plaintiff and himself as private investigator as he was new to the job then, having joined Simmon only on 1 March 2009. He added that when the plaintiff said he was in pain, the first defendant uttered a vulgarity (as in [\[13\]](#) above).

40 Ms Tham Mei Yong, one of the directors of Simmon, has known the plaintiff for some 18 years. They have lived together in a rented terrace house for about eight years. They are close friends but their relationship was strictly a professional one. As she is one of the operatives in Simmon, living together makes it easier for them to go out together for their work.

41 She was involved in the surveillance of the subject but not on 10 March 2009. Sometime after 5pm that day, she received a call from Rasyid telling her that the plaintiff had been arrested. She rushed to Dalvey Road where she saw two police cars, an ambulance, four police officers and two paramedics. There was also a crowd of onlookers.

42 The plaintiff was lying down in the ambulance. He was trembling and appeared pathetic, frail and weary. She was worried for him as she knew about his medical problems. The severely distressed man she saw that afternoon was far different from the confident and composed man that she had known for almost two decades. He was "gibbering" and asking her to look for his mobile phone. She eventually located it in his car.

43 She told the first defendant that the plaintiff was a heart patient and that he could have killed the plaintiff. However, she was ignored. Two other police officers arrived at the scene after the ambulance took the plaintiff away. She always carried a spare key for the plaintiff's car. She called a

staff of Simmon to go to Dalvey Road to drive her car. She then drove the plaintiff's car and they all proceeded to SGH to check on the plaintiff. After that, she left for the airport with the plaintiff. His luggage was actually already in his car when he went to Dalvey Road earlier that day. She told Rasyid to take the video footage of the plaintiff at the airport so as to show the state the plaintiff was in and what his injuries were.

44 After the incident, she observed that the plaintiff would become anxious whenever he saw a policeman. He would also try to avoid Stevens Road. For some time after the incident on 10 March 2009, the plaintiff would become nervous and jumpy when doing surveillance work. She informed the police and the Security Industry Regulatory Department after that day that Simmon intended to continue with the surveillance work at Stevens Road and Dalvey Road in order to avoid further incidents. Subsequent surveillance in that area was conducted by her and others. However, all reports of investigations were written by the plaintiff because of his good command of the English language.

45 SSG Alvin Kum and CPL Muhd Taufiq were in a police car patrolling along Claymore Road at about 5.30pm on 10 March 2009 when they heard over the radio set that there was an incident at Dalvey Road. They rushed to the scene and saw the security officer, the plaintiff and the first defendant. The plaintiff was lying in a prone position next to the brick wall that was parallel to the concrete footpath. The first defendant was beside him holding on to one end of the handcuff that was on the plaintiff's right wrist.

46 When SSG Alvin Kum asked the plaintiff what had happened, he replied that he was forcibly pulled at his T-shirt and pinned down to effect arrest. He also said that he had injuries and needed immediate medical attention. The two police officers did not interview or give any instructions to the first defendant. They went near to assist the plaintiff and noticed a bruise on his left elbow, abrasions on his right knee and his right forehead and handcuff marks on his right wrist. At that moment, the first defendant began to remove the handcuff from the plaintiff's wrist. The plaintiff said he was a private investigator waiting for his target. The plaintiff also claimed to have chest pain. SSG Alvin Kum helped him to his feet and interviewed him. He looked untidy and was perspiring profusely at his forehead area. The first defendant explained that he had arrested the plaintiff for trying to obstruct a public servant in the discharge of his duty.

47 The police officers called their operations room for instructions and for an ambulance as the plaintiff looked wobbly and sounded a bit traumatised. The plaintiff did not say how long he was on the ground. A short while later, two other pairs of police officers arrived at the scene. There were a few members of the public standing near Stevens Close. The first two police officers at the scene helped direct traffic along Stevens Road for a while because the ambulance was parked nearby at Stevens Close. They then left in their police car.

48 Contrary to what the plaintiff stated in his AEIC, CPL Muhd Taufiq, who was serving his national service at the material time, denied that he grabbed the plaintiff's T-shirt near the collar or that he told the plaintiff that he had no choice as he was under arrest while doing so.

49 Sofian bin Osman was one of the paramedics at the scene that day. While he was examining the plaintiff and the other paramedic was examining the first defendant, the latter said to Sofian that he was injured. He showed Sofian his hands and pointed to his leg. The first defendant was not treated medically. The plaintiff was standing and was conscious. His injuries were washed with saline solution and a dressing was put over his leg injury. There were only external injuries.

50 ASP (now DSP) Heng Chih Yang testified that when he arrived at the scene that day, the

incident was already over and the ambulance had left. He interviewed the first defendant at the scene, the plaintiff at SGH and subsequently at Tanglin Police Division and Rasyid at the said police division. The plaintiff looked normal to him at SGH. He was initially in a wheelchair and had already seen the doctor. Later the plaintiff told him that he was taking a flight in a few hours' time. He was with the plaintiff at SGH for about 15 minutes.

51 Dr Shanaz Matthew Sajeed examined the plaintiff at SGH at about 6.35pm that day and noted the injuries as stated at [\[21\]](#) above. He directed that an X-ray be done on the plaintiff's right knee although he could walk because of the plaintiff's age and as he had said that he fell as a result of a tackle. This was to check for fractures. None was detected. The plaintiff spoke of pain over his right knee, right forearm and right wrist. The doctor noted that "there was no loss of consciousness, chest pain, or any significant head injury" in his medical report of 12 May 2009. The plaintiff's wounds were dressed appropriately and he was given some painkillers. He was discharged well with no follow-up needed as the injuries were minor.

The defendants' case

52 The first defendant, presently a diploma holder, was about 40 years old at the time of the incident in 2009. He joined the second defendant as an Auxiliary Police Officer ("APO") on 1 June 1998. From August 1998 to Nov 2010, he was deployed for duty at the embassy. His duties as an APO at the embassy, as spelt out in the operations order issued by the second defendant, included the protection of lives and properties by detecting and deterring unauthorised persons at the embassy and taking appropriate action against such unauthorised persons in the act of committing any breach of security or any undesirable acts. He also performed patrols on foot or on a bicycle in the vicinity of the embassy to ensure that there were no suspicious persons which might pose a threat to the embassy. This was particularly crucial during the periods when the embassy's top officials were arriving at or leaving the embassy's grounds.

53 The operations order provides guidelines to APOs on what to do in confrontations. When confronted by an unknown person who is angry or uses abusive language, the APO is to politely tell that person to stop using such language and, if the abuse continues, to warn him that he will be arrested. If he persists, the APO is to effect arrest and hand him over to the police. When a person obstructs the APO in his duties, he is to go through the same three stages. If there is physical assault, the APO is to use unarmed combat techniques and to arrest by using handcuffs and then hand the arrested person over to the police.

54 On 10 March 2009, the first defendant was on duty at the embassy. At about 5.15pm, the security officer radioed him to inform him that a male Indian was behaving suspiciously, sitting at the footway along Stevens Road. The security officer said the male Indian did not answer questions put to him. As a senior official of the embassy was scheduled to leave the embassy grounds shortly, the first defendant was asked to check on that person.

55 When the first defendant arrived at the scene by bicycle, he saw the plaintiff sitting on the concrete footpath along Stevens Road. There was a small black bag next to him. After speaking briefly to the security officer, he approached the plaintiff, stood next to him in a bending position and asked him for his particulars and the reason for his presence there. Apart from saying rudely that he was waiting for a friend, the plaintiff refused to answer the first defendant's questions. A short while later, the plaintiff asked whether there was a problem with him sitting there. The first defendant told him it was a sensitive place to which the plaintiff retorted angrily, "Do I look like a terrorist?" The plaintiff then made remarks along the lines of "You are a lowly educated CISCO officer, not a policeman and have no right to check on me". The first defendant showed his warrant card and

replied that he had the right to question the plaintiff as an APO. He squatted and asked the plaintiff what was inside the black bag and whether he could take a look at its contents. The plaintiff ignored him.

56 Because of this, the first defendant was concerned that the plaintiff could be a threat to the embassy, in particular, that the black bag could contain some dangerous weapon or some such items. He decided to check the black bag and therefore reached across the plaintiff in an attempt to take a closer look at it. The plaintiff immediately shoved the first defendant's hand away with force. The first defendant was thrown off balance and fell to the ground.

57 As the plaintiff was obstructing the first defendant in his duties, the first defendant was even more concerned that the plaintiff could be a serious security threat. He decided to arrest the plaintiff and therefore informed him of his intention. He then held the plaintiff's right arm and attempted to put the handcuff on his right wrist. The plaintiff resisted and put up a strong struggle.

58 As the plaintiff was vigorously resisting arrest, the first defendant had no option but to throw the plaintiff off balance by using his leg to sweep him off his feet. He then brought the plaintiff down to the ground in a controlled manner, using reasonable and proportionate force. Once the plaintiff was on the ground, the first defendant placed his left knee lightly on the plaintiff's back as a precautionary measure in case the plaintiff should suddenly try to get up. He then handcuffed the plaintiff's right hand and asked the plaintiff to let him have his left hand. The plaintiff refused to comply. Instead, he complained of chest pains. Shortly after hearing this, the first defendant released the handcuff and allowed the plaintiff to get up and sit on the concrete footway. The first defendant then called the police for assistance. The plaintiff was seated on the concrete footway and appeared to be making some calls. The first defendant said the time that elapsed between his arrest of the plaintiff and the release of the handcuff was definitely not as long as 30 minutes.

59 The first defendant denied that he had slammed the plaintiff to the ground. He argued that if he had done that, the plaintiff's injuries would have been more serious than mild bruising and abrasion of his arms and knees.

60 At about 5.40pm, a police patrol car arrived at the scene. The plaintiff and the first defendant were interviewed separately by the police officers. The first defendant overheard the plaintiff saying that he was a private investigator carrying out surveillance work on a man. The plaintiff also complained of pain and demanded that an ambulance be called.

61 At about 5.55pm, the ambulance arrived and attended to the plaintiff. He recalled the paramedic telling the plaintiff that there was no need for him to go to the hospital. However, the plaintiff insisted on going. He was therefore brought to SGH.

62 At about 6pm, the first defendant called Inspector Annuar bin Abdul Rahman, his superior officer. At about 7pm, he gave a statement to the police. As a result of the struggle with the plaintiff, the first defendant sustained cuts on both hands and some bruising of his right knee and was attended to at Changi General Hospital. The police subsequently discovered that the plaintiff's black bag contained a camera used for surveillance operations.

63 The first defendant said that if the plaintiff had informed him earlier that he was a private investigator doing surveillance work that day, the incident would not have happened. The first defendant would have merely asked the plaintiff to show him his private investigator's licence and/or identification papers and then allowed him to carry on with his tasks. He claimed that he was acting in accordance with the operations order that day.

64 The first defendant testified that Rasyid did come along while the plaintiff was handcuffed and said, "Hey, what are you doing? Why are you treating this old man like that?" The first defendant did not respond to him as he appeared to be just a passer-by.

65 The first defendant said he had lost his official pocket book for the period in issue. It was kept in a warehouse which he had rented to store his things because he had moved his home. He also said he was not charged for any offence by the police in relation to the incident of 10 March 2009. No disciplinary action was taken against him too. He made a workman's compensation claim for the injuries to his palms caused during the incident.

66 ASP Annuar has been in the employ of the second defendant since April 1979. At the time of the incident, he was the officer commanding sector B and the embassy was one of the areas within his purview. Because of the worldwide threats against embassies of Israel, the security of the embassy here was of great importance.

67 At about 5.40pm on 10 March 2009, he was informed that an arrest had been made in the vicinity of the embassy. He instructed his deputy to proceed to the scene to gather more information. At about 6pm, the first defendant called him and related the incident to him. The next morning, ASP Annuar called the first defendant to obtain the reference number of the report that he had made to the investigating officer of the incident and to ask about the time that the first defendant left the scene. Based on what the first defendant told him, he then prepared an Incident Report on 11 March 2009.

68 The defendants have not been able to get the embassy's security officer to testify in court. The embassy did not give its consent to the security officer testifying in court and, in any event, he was out of the jurisdiction attending a course.

69 DAC Deryl Ang was the final witness for the defence. He has been with the Singapore Police Force since 1986. He is presently seconded to the second defendant as the commander of the Auxiliary Police Force.

70 His evidence related to the issue of the legality of the arrest made by the first defendant. Based on the Incident Report dated 11 March 2009 (see [\[67\]](#) above), he was of the opinion that the first defendant was entirely justified in effecting the arrest on 10 March 2009. The plaintiff's behaviour, his proximity to the embassy and the fact that he was carrying a black bag with unknown contents would cause a person to reasonably suspect that the plaintiff might pose a genuine threat to the security of the embassy. The plaintiff's use of force was an obstruction of the first defendant's duties and also an assault on a public servant. The first defendant was therefore justified in arresting the plaintiff and it was appropriate that handcuffs were used. This was because the plaintiff had resorted to physical force and it was reasonable for the first defendant to believe that he would resort to further violence or make an attempt to escape when the arrest was being effected. This was in line with the second defendant's standing orders.

The decision of the court

71 This case hinges on the credibility of the plaintiff and the first defendant and their respective versions of the events that took place after they first met that afternoon on 10 March 2009.

72 It is clear to me that the whole episode would not have taken place if the plaintiff had not been so deliberately reticent towards the security officer and then the first defendant. It is hard to comprehend why a former senior police officer like the plaintiff would take umbrage at being

questioned as to his purpose in sitting on the footpath along Stevens Road that day. Even if he was justified in refusing to explain himself further to the security officer, who was not in uniform, and saw no need to blow his cover as a private investigator and did not fully appreciate the meaning of "security" uttered by the security officer as he was then not aware that the embassy was nearby, surely the situation had changed by the time a uniformed APO came along and questioned him as to his purpose in waiting there. There was no issue about the plaintiff knowing that the first defendant was an APO.

73 A former senior police officer like the plaintiff must surely appreciate that the first defendant was merely performing his duties and that since an APO was called to question him, there must be something that the security officer and the APO were concerned about. He could have easily set their minds at ease by mentioning that he was a private investigator doing surveillance work on a subject. If necessary, he could have produced some proof of his status. Instead, he chose to be difficult and pugnacious towards a uniformed officer.

74 I believe the first defendant's account as to what transpired after he arrived at the scene and went towards the plaintiff. He did not appear to me to be someone given to violence or to exaggeration. He was in uniform and on official duty. It defies belief that he would approach the plaintiff as if spoiling for a fight in bright daylight in an open public space and that he would become so furious over the plaintiff's seeming nonchalant attitude when he was being questioned. It was even more incredible that he would slam the plaintiff face down in the manner alleged. If he had done that, it would be quite amazing that the black pouch or bag was not flung out of the plaintiff's left hand and that the video recorder inside it was not damaged at all with that hard landing on the concrete floor, even if there was some padding inside the said pouch or bag. The plaintiff's minor injuries certainly did not bear out his version of the events. On the other hand, the first defendant's account accorded with the injuries found on the plaintiff and on the first defendant's hands.

75 I do not place much weight on the exact sequence or timing of the events from the witnesses. It was understandable that there would be some discrepancies in the sequence and timing, given the circumstances of the incident here. However, the plaintiff's evidence that he was on the ground with his right arm twisted behind his back for about 30 minutes was simply unacceptable. If the incident took that long, it would be highly surprising that the first defendant did not pull the plaintiff's left arm backwards to be handcuffed. As acknowledged by the plaintiff, who was very familiar with police arrest procedures, the next thing after handcuffing his right wrist would be to handcuff his left wrist as well. Yet, the first defendant, practically kneeling on top of the prostrate plaintiff, lying on the hard ground helpless and not struggling, somehow could not or did not reach out to pull the plaintiff's left arm, which was still clinging on to the black pouch or bag, to be handcuffed for the whole 30 minutes. Instead, according to the plaintiff, a uniformed APO would choose to kneel forcefully on an arrested person's back and continue to tug at his handcuffed hand in an open space next to a public road in bright daylight for a good half hour, with the plaintiff's left arm outstretched and hanging on to the black pouch or bag and with onlookers observing what was happening. If not for the seriousness of the allegations made in this case, the scenario presented by the plaintiff would be quite comical indeed.

76 The plaintiff also claimed that he did not identify himself during all that time because he was in a daze after the violent arrest. However, when Rasyid arrived at the scene later, he could instruct Rasyid to call the police. Scenes of arrest were nothing new to the plaintiff although he had left the police force for about a decade by then. Even though he was the one handcuffed on this occasion, one can only wonder why, for 30 whole minutes, he could not even simply explain that he was a private investigator doing some surveillance work and that he had a video recorder to prove it. However, despite being in a daze, he could feel embarrassment and humiliation because of the

onlookers (see [\[15\]](#) above). The arrest could not have taken anything close to 30 minutes. According to the first defendant's evidence, which I accept, it would have taken no more than a few minutes.

77 All this shows that the plaintiff's version of the events could not be true. The more probable version is that he, having been a senior police officer before, was truculent and disrespectful towards the first defendant, whom he regarded with disdain as he considered him "a lowly educated CISCO officer, not a policeman" (see [\[55\]](#) above). For that reason, the plaintiff saw no need to identify himself or to explain his presence there despite the lawful queries from the APO thereby leading unnecessarily to the events that followed.

78 The first defendant had every reason to check out the plaintiff as a senior official of the embassy was about to leave the premises at that time. He was in uniform and the plaintiff knew what that uniform was. If the plaintiff had merely condescended to answering the simple and lawful queries made by the "lowly" first defendant, even if he was justified in not being forthright with the security officer, he would not have subjected himself to this unhappy incident. As things happened, the plaintiff's conduct became the cause of his own arrest.

79 It was unfortunate that the security officer of the embassy could not testify at the trial. He was not in Singapore during the trial. One can also easily appreciate why the embassy may be reluctant to have its security officer testify in court about security matters of the embassy. I draw no adverse inference from his absence. In any event, the evidence adduced in court was more than sufficient for me to come to a firm view as to which version of the incident is the truth.

80 Under s 32(1)(a) of the Criminal Procedure Code (Cap 68, 1985 Ed), the applicable law on 10 March 2009, a police officer may arrest without a warrant of arrest any person who has been concerned in any seizable offence or against whom a reasonable suspicion exists of his having been so concerned. By virtue of s 32(1)(e), a police officer may also arrest without a warrant any person who obstructs him while in the execution of his duty. The plaintiff acknowledged that an APO has all the powers, privileges and immunities of a police officer (see Gazette No. 43 of 2004).

81 Carrying or possession of an offensive weapon in a public road or place otherwise than with lawful authority or for a lawful purpose would be a seizable offence under s 6 of the Corrosive and Explosive Substances and Offensive Weapons Act (Cap 65). Under s 9 of that Act, a police officer has powers of search without warrant if he has reasonable grounds for believing that any evidence of the commission or of the preparation for the commission of an offence under the Act is likely to be found on any person.

82 The first defendant had every reason to be concerned as the plaintiff was sitting on a footpath near the embassy at a time when the senior official was about to leave the premises. The plaintiff's attitude towards the security officer and the first defendant, his refusal to say what was inside his black pouch or bag when asked, followed by his physical resistance against the first defendant reaching out to the said pouch or bag provided reasonable grounds for the first defendant to believe that it might contain a weapon. The plaintiff was also making it more difficult for the first defendant to carry out his duty as an APO by being truculent and uncooperative. He was therefore obstructing the APO in the execution of his duty.

83 The plaintiff's use of force against an APO could also be an offence under s 353 of the Penal Code (Cap 224, 2008 Ed) which is a seizable offence of assaulting or using criminal force to a public servant in the execution of his duty. Further, his uttering of the offensive words against the first defendant (see [\[55\]](#) above) could also fall within s 13D of the Miscellaneous Offences (Public Order and Nuisance) Act (Cap 184) which provides for an offence of using abusive or insulting words or

behaviour towards a public servant in the execution of his duty in a public place or in a private place (a seizable offence pursuant to s 40 of the same Act).

84 In all the circumstances of this case, the arrest of the plaintiff by the first defendant was therefore completely justified. Further, the force used by the first defendant was reasonable and justifiable on account of the plaintiff's resistance and struggle. The injuries to the plaintiff all occurred in the course of effecting the lawful arrest in a lawful manner. There was therefore no wrongful arrest and no unlawful force used. The first defendant could not be liable for the injuries caused. Consequently, his employer, the second defendant, could not be vicariously liable as the first defendant had done no wrong.

85 In the plaintiff's written submissions, he included a claim for false imprisonment on the basis that the handcuffing of his right wrist and pinning him to the ground constituted such. However, this claim was not pleaded. In any case, it would have failed in the light of my findings on the facts.

86 The plaintiff claimed \$150,000 as compensatory and aggravated damages and \$100,000 as exemplary damages. In addition, he claimed special damages in the sum of \$300 as the estimated cost of replacing his torn jeans and T-shirt and his lost spectacles. Although it is unnecessary for me to deal with the issue of damages in the light of my findings on liability, I shall make some comments on the plaintiff's evidence relating to the physical injuries and the mental agony allegedly suffered by him as a result of the incident.

87 In respect of the plaintiff's physical injuries, even the untrained eyes of Rasyid observed that they were not serious and did not merit calling for an ambulance to the scene. The paramedic who examined the plaintiff noted that the plaintiff was standing and was conscious. He washed the plaintiff's injuries with saline solution and put a dressing over his leg injury. There were only external injuries. Dr Shanaz Matthew Sajeed directed that an X-ray be done on the plaintiff's right knee although he could walk because of the plaintiff's age and his description as to the cause of his fall. No fracture was detected. There was no loss of consciousness, chest pain, or any significant head injury. The plaintiff's wounds were dressed appropriately and he was given some painkillers and was then discharged well with no follow-up needed as the injuries were minor.

88 The physical injuries listed at [\[21\]](#) above confirmed that the plaintiff suffered only minor injuries during the arrest. Such injuries would not attract more than \$5,000 in damages.

89 As for the emotional and psychological disturbances the plaintiff alleged he suffered, although he claimed that he deliberately avoided the vicinity of Stevens Road for about a year after the incident, he was able to return to the scene five days later for a photographic re-enactment of the arrest. At least the earlier segment of the re-enactment must have been directed by him because Rasyid appeared at the scene on 10 March 2009 subsequent to the arrest. As a seasoned former senior police officer, arrest scenes involving more suspects and much worse struggles must have occurred many times during the plaintiff's illustrious career as described on Simmon's website. He retired early from the police force but not on medical grounds.

90 He was sufficiently alert during the incident to notice and be embarrassed by passers-by looking curiously at him lying on the ground with an APO kneeling on his back. His mind was clear enough for him to remember that he had a flight to catch in a few hours' time and to give instructions regarding his luggage. He was obviously well enough to tell the hospital staff he did not want to be warded because of the trip. He was certainly stable enough to make the trip to Jakarta on his own that very night.

91 Why then would this tough former senior police officer suddenly turn into a nervous wreck for a substantial period over an allegedly wrongful arrest and assault to the extent that he would be distressed and jittery whenever he saw a police car or a police officer? The objective evidence pointed clearly to a grossly exaggerated dramatization of the purported aftermath of the incident. I do not accept that there was any emotional and psychological disturbance.

92 The plaintiff therefore fails entirely in his claim against both defendants. His action against them is dismissed with costs to be agreed or taxed. If the parties would like me to fix the costs of the action, they may request in writing to attend before me in chambers on a suitable date to make the necessary submissions on costs.

Copyright © Government of Singapore.