

the slander, and this they failed to do: Odgers on Libel and Slander, 5th ed., pp. 382, 383.

The plaintiffs also appealed from the judgment on the counter-claim, on the ground that, the trial Judge having ruled that the occasion on which the alleged libel was published was a privileged occasion, it was necessary for the defendants to prove express malice, and on the ground that there was no evidence on which a finding of express malice could be made.

The trial Judge ruled and instructed the jury that the words of the libel, read in the light of the surrounding circumstances, could be looked at as evidence on which the jury could make a finding of express malice, and the jury, on this direction, found that the letter complained of was sent with malicious intent. The learned trial Judge was right in his ruling.

Reference to *Adam v. Ward*, [1917] A.C. 309, 326, 329.

It was clear that the learned trial Judge was of the opinion that the words of the letter complained of were capable of affording evidence of express malice, and he was right in leaving it to the jury to say whether, on the reading of these words in the light of the surrounding circumstances, there was in fact express malice.

The defendants did not appeal or question the ruling that the statement complained of by the plaintiffs was defamatory or the ruling that the libel set out in the counterclaim was published on a privileged occasion; and, for the purposes of this judgment, it had been assumed that both rulings were right.

*Appeal dismissed with costs.*

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## HIGH COURT DIVISION.

ORDE, J., IN CHAMBERS.

SEPTEMBER 24TH, 1920.

REX v. ARSINO.

REX v. SANTARPIO.

*Criminal Law—Demanding with Intent to Steal—Kidnapping—Criminal Code, secs. 297, 452—Preliminary Inquiry by Magistrates—Evidence—Commitment for Trial—Motions to Quash Warrants.*

Motions by the prisoners for orders quashing warrants committing them to gaol.