

*Mr. Justice Archibald Acting Chief Justice.* The question in this case is: there want of probable cause and malice in the action of the defendant in causing the plaintiff's arrest?

I think the judgment in the court below does not sufficiently take into consideration the policy of the law with regard to matters of this kind. It is of the utmost importance to the good government of the country that crimes be rigorously suppressed. It is for that reason that when an information has been laid before the officer appointed for the investigation of criminal acts, the law saves the person making the information from liability for damages if he acts in good faith, reasonably believing that a crime has been committed and without a malicious intention of wronging the defendant; and also this is not made a means of defence, but the obligation is placed upon the person arrested to show that the person laying the information against him had no reasonable or probable cause and acted maliciously. It is for that reason that the matter must be judged by the information which was in the possession of the informant at the time when he laid his information, and not upon the true facts which may afterwards be proved. Thus, if a person believing another wholly innocent but intending maliciously to injure him, lay as information for a serious crime, that action would give to an action for damages even if afterwards it was proved that the person so arrested was really guilty. On the other hand, the complete innocence of the person arrested is no ground of action for damages if, from the circumstances in the knowledge of the person acting against him, such person had a right reasonably to conclude that the person charged was guilty and actually thought him guilty and acted with the object of securing justice and not with malicious intention.