If the jury find that the defendant did not believe the information upon which he based the charge, the judge is right in ruling that he had no reasonable or probable cause for laying the indictment ; (*e*) and a verdict for the plaintiff based on such a finding will not be disturbed. (*f*) On the other hand, it is of course still open to the judge to rule either way, where the defendant is found by the jury to have believed in the sufficiency of the grounds upon which he proceeded. (*g*)

As there can be no more conclusive proof of the defendant's want of belief than the demonstrated fact that he was actually aware of the plaintiff's innocence, the principle that an action lies for instituting or continuing a prosecution after the defendant has obtained knowledge of the plaintiff's innocence is not disputed. (*h*)

(*b*) *Evidence of extraneous motive of defendant, bearing of*— Evidence that the defendant was actuated by some motive other than the desire to vindicate the law has been held in several cases to be competent to disprove the existence of probable cause. (*a*)

But the argument that the attachment of a debt was procured for the purpose of extorting money from the plaintiff is of no force, unless the payment was made to release him from debt that was falsely alleged to be due. (*b*)

(*e*) *Haddrick* v. *Heslop* (1848) 12 Q.B. 267 : *Douglas* v. *Corbett* (1856) 6 El. & Bl. 611. For an instance in which this rule was applied by a trial judge, see *Williams* v. *Banks* (1859) 1 F. & F. 557. The non-appearance of the defendant either at the hearings before two magistrates before whom successively he caused the plaintiff to be brought : *Shufflebottom* v. *Allday* (1857) 5 W.R. 315, or at the trial : *Taylor* v. *Williams* (1831) 2 B. & Ad. 845, is evidence from which want of probable cause may be inferred. On the other hand, evidence which merely shews that the defendant, after the plaintiff had been discharged by one magistrate, had him arrested on the same charge and brought before another magistrate, is not competent on the issue of probable cause. It is, however, admissible in aggravation of damages, as shewing the motive with which the defendant had acted : *Wilton* v. *Elmore* (1830) 4 C. & P. 456, per Tindal, C.J.

(*f*) *Ravenga* v. *Mackintosh* (1824) 2 B. & C. 693.

(*g*) *Shrosbery* v. *Osmaston* (C.P.D. 1878) 37 L.T.N.S. 792, per Denman, J.

(*h*) See *Fitzjohn* v. *McKinder* (1861) 9 C.B.N.S. 505 : *Harrison* v. *National, &c., Bank* (Q.B.D. 1884) 49 J.P. 390 : *Abrath* v. *North-Eastern R. Co.* (1883) 11 Q.B.D. 440, per Bowen, L.J. (p. 462) : *Cox* v. *Wirrall* (1607) Croke Jac. 193

(*a*) *Broad* v. *Ham* (1839) 5 Bing. N.C. 722 [charge accompanied by a demand for a sum of money] : *Ravenga* v. *Mackintosh* (1824) 2 B. & C. 693 ; 1 C. & P. 204 [evidence was that plaintiff was arrested as a means of enforcing a contract] : *Haddrick* v. *Heslop* (1848) 12 Q.B. 267, affirmed in Exch. Ch. sub nom. *Heslop* v. *Chapman* (1853) 23 L.J.Q.B. 49 [evidence was that plaintiff was prosecuted for perjury to get rid of his evidence on a new trial of the case in which the perjury was alleged to have been committed : *Lefuntun* v. *Bolduc* (1878) 1 L.C. Leg. News (S.C.) 266 [same point].

(*b*) *Purton* v. *Hill* (1864) 12 W.R. 753, per Mellor, J.