

stolen a valise in a hotel and detained him in custody for about two hours. The plaintiff brought this action for false imprisonment. At the trial the judge told the jury that in his opinion there was an entire absence of reasonable and probable cause for the arrest, but left that question to be decided by them on the evidence. The jury returned a general verdict for the plaintiff and assessed the damages at \$500, \$250 against each defendant. On application to this Court for a new trial the following points were decided.

1. The trial judge was not bound to put to the jury specific question, such as, "Did the defendants take reasonable care to inform themselves of the facts?" "Did the defendants honestly believe that the plaintiff was guilty of the offence for which he was arrested?" but might, with a proper charge, submit all the facts to the jury leaving them to return a general verdict.

2. In charging the jury, the Judge should not suggest to them that they might put themselves in the plaintiff's position, and consider how much they ought in that case to be paid, but this only affected the quantum of damages as to which no objection had been raised. *Hesse v. St. John Ry. Co.*, 30 S.C.R. 218, followed.

3. Evidence to prove the bad character of the plaintiff was properly rejected at the trial: *Newsome v. Carr*, 2 Stark. 69; *Jones v. Stevens*, 11 Price 235, and *Downing v. Butcher*, 2 Moo. & R. 374.

4. The judge's charge to the jury that it is necessary in such an action for the plaintiff to prove malice (as he would in an action for malicious prosecution) was wrong, but, although there was no evidence of malice, the misdirection was not a ground for disturbing the verdict, as it was not attacked as being excessive.

5. There is no ground for an action for malicious prosecution unless the acts complained of are the result of a complaint laid before a magistrate: *Austin v. Dowling*, L.R. 5 C.P. 534.

Howell, K.C., for plaintiff. *Hoskin* and *Bowen*, for defendants.