
CRITICAL ANALYSIS OF THE CASE BAVISETTI VENKATA SURYA RAO VS. NANDIPATI MUTHAYYA, AIR 1964 AP 382

Lehar Saini, Symbiosis Law School, Hyderabad

PART I

INTRODUCTION

One of the basic tenets of Indian legal system is that every citizen has certain unalienable rights of person and property. The Indian legal system, which was adopted in part from the United Kingdom, has a civilised way of redressing individual right violations.

In this research paper, before analyzing the case of Bavisetti Venkata Surya Rao v Nandipati Muttayya¹, it is important to introduce certain important elements that might be drawn from the case observations. The paper thus starts with the basic elements as discussed in this case to provide preliminary knowledge of the essence of ‘trespass to person’ and ‘assault’ herewith.

The law of torts recognises several actions in trespass to the person. Its principle was that any direct invasion of a protected interest from a positive act could be challenged provided it was justified. If the invasion is indirect yet predictable or if the invasion is not a positive action, there can be no responsibility for the offence, though the wrongdoer may otherwise have been accountable. Subsequent development has resulted in even further restrictions. Even if the invasion was unintentional and resulted from a positive act, if the defendant's conduct was reasonable, or even though it was unreasonable, whether the invasion was an unforeseeable occurrence, there will be no liability². In this regard, it is important to refer to two decisions: *Fowler v Lanning*³ and *Letang v Cooper*⁴. The two important rules of trespass to person are as follows: Firstly, the defendant has to plead and prove justification and the appellant need not show that the conduct of the defendant was unreasonable. Secondly that damage is not a required factor and need be proved by the appellant. Assault, battery, and false imprisonment

¹ *Bavisetti Venkata Surya Rao v. Nandipati Muttayya*, AIR 1964 AP 382.

² RANTANLAL & DHIRAJLAL, THE LAW OF TORTS 110 (28th ed.2020).

³ *Fowler v. Lanning*, (1959) 1 QB 426.

⁴ *Letang v Cooper*, (1965) 1 QB 232.

are the three major forms of trespass to person. These forms of trespass are sometimes referred to as torts in their own right. A threat or an effort to cause bodily hurt to someone else is regarded as an assault, with the willingness and intent to carry out the act in the present. In an assault, actual contact is not necessary. However, not every threat is an assault when there is no direct bodily violence; the threat must always be supported with means of its implementation. “Any gesture calculated to excite in the party threatened a reasonable apprehension that the party threatening intends immediately to offer violence, or, in the language of the Indian Penal Code, is ‘about to use criminal force’ to the person threatened, constitute, if coupled with a present ability to carry such intention in execution, an assault in law.⁵” An assault is characterized by both the intention and the act. Simply words do not account to assault. However, the words used by the threatening party at that time might give his gestures a meaning that makes them an assault or, on the other hand, prevents them from being an assault.

Along with the briefing and analysing of the case *Bavisetti Venkata Surya Rao v. Nandipati Muttayya* and other related case laws, the paper will essentially include a study on the courts’ ideology and applicability of the tort of assault. In examining the case in hand, the paper will also briefly describe the essentiality of the tort of assault to bring a flow of knowledge as described in the case. Thereby, the main objective is to understand the tort of assault along with conducting a brief study on its applicability.

RESEARCH OBJECTIVES

The present study attempts to not only understand the tort of assault, but also to conduct a brief study on its applicability. The following are the objectives that the researcher would like to ascertain through this research:

- 1) To develop an understanding about the tort of trespass to person.
- 2) To study and examine the forms of trespass to person.
- 3) To study the difference between the tort of battery and assault.
- 4) To develop an understanding about the essentiality and applicability of the tort of assault.

⁵ John Anthony Jolowicz, Winfield and Jolowicz on Tort (19th ed. 2014).

- 5) Identify, retrieve, evaluate and synthesize whether the tort of assault is applicable to the case in hand.

RESEARCH QUESTIONS

The following questions are ought to be addressed in the due course of this research:

- 1) What is trespass to person? What are its forms?
- 2) What is the difference between the tort of battery and assault?
- 3) What are the essential elements of the tort of assault?
- 4) Is the tort of assault applicable to the case in hand?

SCOPE OF STUDY

The research study provides for a detailed understanding of the tort of assault, its essentiality, applicability and justifications. In doing so it employs variables and the nature of relationship between these provisions and practical understanding of incorporating the concept alongside the problem related. Therefore, this research will help students as well as researchers to obtain basic understanding of this topic. Though the current research aims to critically analyze the case *Bavisetti Venkata Surya Rao v Nandipati Muttayya*, it is much effective when observed with a broader perspective to relate to any such cases in India.

RESEARCH METHODOLOGY

The methodology adopted for this paper remains Analytical and qualitative method. The outline and design of the concept emerge as the study unveils chapter wise. It is a subjective analysis based on the researcher's interpretation of various proceedings of the past and present.

Research has been conducted using secondary data collection method, with extensive adherence to reports, case laws, articles, journals newsletters, and documents for review. A literature review was conducted utilizing database websites like Manupatra, SCC Online, Jstor etc.

In order to elucidate the concept of the tort of assault, current research is largely focused on the concepts of doctrinal research. The idea of referring and analyzing existing data, such as laws

and statistics, connote a doctrinal investigation. It is best to propose a doctrinal investigation and review numerous applicable laws in force for successful analysis on such a topic. The analysis of numerous definitions on the subject given by various jurists and also the analysis of the precedents relevant to the current case require the investigator to pay attention to the intricate words and details in them. The researcher also believes that the research approach is not limited to analytical and prescriptive instruments, but that secondary and tertiary empirical evidence are also used to assist in critical study of the research subject. The researcher, therefore, proposes a doctrinal review as it better matches the present case analysis

LITERATURE REVIEW

In examining the context and conceptualization of the theme under discussion, the research was succoured with several reviews of the study. The focus seems to be on rationality, and the most prominent works are predominantly based upon the essence of the tort of assault. The researcher has performed a background check as to what laws are relevant to such cases. The journals, the research article and reports referred by the researcher are not conclusive intrinsically but the researcher had to analyse the data with respect to other relevant factors to form a conclusion.

One of the most prominent works is *Ratanlal & Dhirajlal's The Law of Torts*⁶. This academic piece is the most authoritative, well-acknowledged and comprehensive commentary on the subject and is supplemented with sufficient case laws. The book has indeed helped the researcher to grasp the basics of the topic at hand such the understanding about trespass to person, its forms, essentialities, applicability, relevant case laws etc. The researcher also referred to the *Defences in Tort*⁷ which guided the researcher in examining the laws from a more theoretical perspective. This book includes a variety of essays that allowed the researcher to focus on principles and literature that have been developed largely in relation to criminal law and to consider their relevance to the law of torts. *The Indian Contract Act, 1872* helped the researcher in understanding the definitions and elements of the sections present in the case judgement.

The journal article "*Trespass to the Person - Still a Useful Legal Concept*"⁸ enabled the

⁶ Supra Note 2.

⁷ ANDREW DYSON, DEFENCES IN TORTS 120 (2015).

⁸ David Lillycrop, Trespass to the Person - Still a Useful Legal Concept , 10 B. L. J. 61 (1977).

researcher to gain knowledge about the relevant sections, case laws and the existing legality and applicability about the subject matter. The article discusses how the most remarkable element of the tort of Trespass to the Person, although retaining a valuable and possibly necessary legal notion, is plainly eclipsed by its criminal law equivalent and so cannot be regarded vital to this significant area of the law. *“Intentional Torts: Some Thoughts on Assault and Battery”*⁹ authored by F. A. Trindade helped the researcher in understanding the “requirements of directness”, the “nature of an intentional act”, the kind of “contact required for battery”, the “kind of threat required for assault”, the sort of “apprehension sufficient for assault”, the relevance of the appellant and accused’s “knowledge of the assault and battery” and the “question of consent”. This article was very helpful in giving a distinct idea about the background study and in clearing away all the ambiguity in the topic. It was deemed necessary for this research to refer to the journal article *“Trespass To The Person, Negligence, And Breach Of Contract”*¹⁰ as this helped the researcher in gaining valuable insights about the topic in hand. To add to the efficiency of the research, the researcher referred to research papers *“Trespass and Negligence”*¹¹, *“Assault on the Law of Tort”*¹², *“Assault”*¹³ and *“Torts: Assault; Battery”*¹⁴ which most contributory to the current research as the paper provides a widened the scope of the concept of assault. These sources provided a wide variety of knowledge on the subject which made it easier for the researcher to grasp and understand the concept.

PART II

CHAPTER II- THE TORT OF TRESPASS TO PERSON: ITS FORMS

Trespass to a person, as stated previously, refers to willful interference with a person's body. Trespassing on someone might be done by injuring them or just apprehending them. The objective of this law is to preserve a person's secular right to self-defense over his own body. The most elemental civil rights, the security of a person's body, can be directly challenged by actual violence done or threatened, or by a denial of liberty. As a result, there are three types of trespass to person are as follows:

⁹ F. A. Trindade, *Intentional Torts: Some Thoughts on Assault and Battery*, 2 Oxford Journal of Legal Studies 211, 211-237 (1982).

¹⁰ *Trespass To The Person, Negligence, And Breach Of Contract*, 1 BMJ 1195, 1195-1196 (1932).

¹¹ Percy H. Winfield & Arthur L. Goodhart, *Trespass and Negligence*, 49 L. Q. REV. 359 (1933).

¹² Edward Veitch & David Miers, *Assault on the Law of Tort*, 38 MOD. L. REV. 139 (1975).

¹³ Mitchell W. Rabbino, *Assault*, 1956 JAG J. 11 (1956).

¹⁴ W. D. Rollison, *Torts: Assault; Battery*, 17 NOTRE DAME LAW. 1 (1941).

Battery: A battery is a direct act by the accused that results in contact with the claimant's body without the claimant's permission.

The following are the essentials of a battery:

- It involves contact. This contact might be either direct or indirect.
- The offender must have intended to commit the offence.
- Application of force must be there.
- There shall be no unauthorised contact between the parties.
- The wrongdoer's use of force against the plaintiff must not be coerced.

Assault: Any direct threat by the accused that puts the claimant in reasonable fear of immediate contact, either by the accused or by someone or something under the accused's control, is considered an assault.

False Imprisonment: False imprisonment is the deprivation of a person's liberty for an extended period of time without a legal reason¹⁵ It is a strict liability tort, which means the plaintiff does not have to prove the defendant's fault.

Two elements are required to constitute this wrong: —

(1) The individual may be detained in one of two ways: (a) physically, such as by laying hands on them; or (b) constructively, such as by an officer notifying anybody that he is wanted and forcing them to follow him.¹⁶

(2) The confinement must be unconstitutional. It makes no difference how long the detention lasts. However, it must not be legal. “Every confinement of the person is an imprisonment, whether it be in a common prison, or in a private house, or in the stocks, or even by forcibly detaining one in the public streets”.

¹⁵ Bird v. Jones, (1845) 7 QB 742.

¹⁶ Pockock v. Moore, (1825) R & M 321.

CHAPTER III- BATTERY AND ASSAULT

An assault is defined as an effort or threat to cause bodily harm to another person, with the ability and intent to carry out the act in the present. In an assault, physical contact is not required, but it is in a battery. However, not every threat becomes an assault when there is no actual personal violence; the threat must always be accompanied with the means to carry it out.¹⁷ “Any gesture calculated to excite in the party threatened a reasonable apprehension that the party threatening intends immediately to offer violence, or, in the language of the Indian Penal Code, is ‘about to use criminal force’ to the person threatened, constitute, if coupled with a present ability to carry such intention in execution, an assault in law.”¹⁸ The intention as well as the deed describe an assault. As a consequence, if you strike a person in the discourses of the hand, arm, or breast, it's not a stroke, since one didn't want to strike, but if a person strike someone to assault him and miss it, that accounts to an assault¹⁹. The threatening behaviour and hostile intent of this is to make the assault unlawful, for instance by placing a loaded gun²⁰ on any one person or by pointing or brandishing a weapon²¹ on another person with the purpose of using it²².

- Battery is not included in every assault. Assault is part of every battery. Battery is a more serious type of assault.
- The attempt to conduct battery is known as assault. Battery is defined as the use of force against another person without legitimate reason.
- Assault is used to threaten someone, whereas battery is used to do injury to someone.
- While physical contact is not required in assault, it is required in battery.
- A mere apprehension of danger suffices for an Assault. There must be a physical application of force in order for a battery to work.

CHAPTER IV- ESSENTIALITY AND APPLICABILITY OF THE TORT OF ASSAULT

Any danger directly posed to the plaintiff by the defendant or someone or something directed, in reasonable fear of immediate contact with his person, is regarded to be an assault. Acts of assault can be prosecuted in both civil and criminal courts.

Essentials of Assault:

- *An act intended to cause harm:* In order to prove assault, the suspect's conduct must be motivated by a desire to instil dread or danger in the victim's mind.
- *Reasonable apprehension:* The term apprehension has two meanings: fearful anticipation and freight anticipation, both of which are relevant to the tort of assault. When we say that the plaintiff must be placed in reasonable apprehension of an imminent contact with his person, it doesn't mean that he has to dread or be terrified of the possible contact, As it was held in *Brady v. Schatzel*²³. The fear of impending contact ought to be reasonable. The apprehension is reasonable if it is evident that the person issuing the threat has the current actual ability to carry out that threat.
- *Knowledge of threat:* In an alleged assault, the appellant must be aware of the threat at the time it is made, unlike in battery, where the appellant can file an action for a contact even if he was not aware of it at the time it was made.
- *Imminent harm must be there:* There should be a prima facie case to be made. The feared contact must be imminent in order for assault to occur. If a person makes a gesture with the intent to harm another person, it should be immediate and cause any prudent person to be concerned.
- Defendants must have the *apparent ability* to cause bodily injury.
- The complainant must be aware of the threat and truthful.

When determining whether a threat constitutes an assault, the distinction between threats by positive deeds and threats by words would be less important than whether the threat conveys the fear of immediate and direct bodily contact. Whether the threat is made by deed, by deed and words, or by words alone, it is an assault if it conveys the fear of immediate and direct

¹⁷ *Stephens v. Myers*, (1830) 4 C & P 349 : 34 RR 458.

¹⁸ Per Arnould, CJ, in *AC Cama v. HF Morgan*, (1864) 1 BHC 205, 206.

¹⁹ *Mortin v. Shoppee*, (1828) 3 C & P 373.

²⁰ *R v. James*, (1844) 1 C & K 530; *Osborn v Veirch*, (1858) 1 F and F 317.

²¹ *Genner v. Sparkes*, (1704) 1 Salk 79.

²³ *Brady v. Schatzel*, [1911] StRQd 206.

bodily contact.²⁴

“Legal defenses on charges of Assault”:

Like other criminal charges, even assault has certain defences. These are determined by the circumstances of each case, as well as other considerations such as state legislation. The following are some of the most prevalent assault defenses:

- **Self-defense:** In case where the defendant acts out of self defense, it serves as an ultimate legal defense. However, the amount of force applied or displayed should be acceptable for the circumstance and proportional to the force used against them.
- **Intoxication:** In some circumstances, intoxication can be used as a legal defence, particularly when it impairs a person's capacity to act intentionally.
- **Coercion:** This might be a defence if the defence defendant was compelled to attack under a risk of harm.
- **Lack of proof:** It can be used as a legal defence if the elements of proof are not discovered or are not backed by sufficient evidence.

Many other types of avoidance may exist depending on the circumstances.

CHAPTER V - CASE ANALYSIS

1) ANALYSIS OF BAVISETTI VENKATA SURYA RAO V. NANDIPATI MUTTAYYA²⁵

Brief facts of the case:

In this case, the appellant owed the defendant a specific sum that he was unable to pay. To recoup the money, the defendant planned to go to the appellant's house and sell some personal belongings. The defendant hired a jeweller to assess the worth of gold in the appellant's home, but the person standing nearby at the time of the assessment borrowed the money from another to provide it to the defendant, and the plaintiff sued him for assault after the defendant took the

²⁴ *Taylor J in Barton v Armstrong* [1969] 2 NSW 451, 455.

²⁵ *Supra* Note 1.

money. The issue raised in the case was:

- Is the defendant liable for assault?

Judgment:

- It was ruled that the defendants said and did nothing following the entrance of the Goldsmith, and that the Goldsmith's threat of using force against the appellant was too remote a possibility to have put the plaintiff in dread of imminent harm.
- The prosecution must prove two factors to establish assault:
 - 1) that they anticipated immediate physical harm as a result of the accused's words or actions; and
 - 2) that the accused intended or foresaw that such apprehension would occur.
- The prosecution could not prove the above two points and hence the defendant was not liable for assault.

OTHER IMPORTANT CASES

2) STEPHEN V. MYERS²⁶

Brief facts of the case:

The petitioner was presiding over a parish meeting. At the other end of the table, the defendant was seated. The debate grew quite heated. The defendant stood up and informed the plaintiff that he would sooner "pull the chairman out of his chair than be thrown out of the room." He then walked up to the plaintiff and shook his fist. Witnesses believed the defendant intended to strike the plaintiff. However, the churchwarden intervened and stopped him before he could hit. The claimant filed a lawsuit against the accused for assault. The accused claimed that was not an attack since he did not have the capability to carry out any threats. The issue raised in this case was:

²⁶ Stephen v. Myers, (1830) 172 ER 735.

- Were words or acts of the accused an assault?

Judgment:

- The court concluded that if the accused had the means to carry out his threat, words and actions, it would constitute an assault.
- This would be the situation if the accused threatened to approach in such a way that his blow would have reached the appellant or had a third person not intervened. The jury pronounced the claimant's verdict and ruled that the defendant had committed an assault.
- Tindall CJ stated that “It is not every threat, when there is no actual personal violence, that constitutes an assault, there must, in all cases, be the means of carrying the threat into effect.”
- Tindall CJ further said the tort necessitates the defendant to be prepared to carry out an assault.

3) READ V. COKER²⁷

Brief facts of the case:

- The applicant came to the Workshop of the defendant to resolve a disagreement over some products in the Workshop. When asked, he refused to leave. The defendant and his staff encircled the plaintiff and, if he did not depart, threatened to break his neck. The claimant departed for fear of violence. The applicant subsequently returned to the workshop to seize the products. The defendant contacted the police, and the plaintiff was arrested.
- The plaintiff then sued the accused for assault and false imprisonment. The accused contended that he was authorised to act on the basis of certain existing legislation. But he did not know that the legislation existed at that time. The defendant further contended that his actions were not an assault, as the phrasing was conditional: by performing as asked, the plaintiff could escape the danger. The issues that were raised in this case

²⁷ Read v. Coker, (1853) 138 ER 1437.

were:

- Is the defendant's threat to break the claimant's neck considered an assault?
- Could the defendant rely on defences included in a legislation he was not aware of?

Judgment:

- The Court of Common Pleas held in favour of the claimant. Despite the fact that he was unaware of the statutes, the accused was entitled to rely on them. A threat of violence is an assault even if the defendant is not about to strike or use a weapon. It makes no difference that the threat is conditional on the claimant's refusal to immediately comply with the defendant's demands. It makes no difference if a person believes he is acting in pursuit of a legal right if he is unaware of the specific legislation or statute that authorises his activities.

4) R V. BURSTOW²⁸

Brief facts of the case:

In this case, the defendant routinely contacted three separate ladies over a three-month period. He did not talk throughout this conversation, however he did heavily gasp on the line. He was then charged and convicted of assault inflicting actual bodily harm in violation of Section 47 of the "Offences Against the Person Act of 1861". He was found guilty on the basis of the victims' mental injuries. The defendant challenged his conviction, claiming that sheer silence does not constitute assault and that the victim's psychological suffering is not bodily hurt. The issue raised in this case was:

- Can mere silence cause an assault?

Judgment:

- The court ruled that simple silence can be the cause of an assault. When silence is used in a way that causes anxiety in the victim, it can be a threat. Where the victim is concerned that the threat will be carried out soon, potentially resulting in an assault. .

²⁸ R v. Burstow, (1998) AC 147.

The court has concluded that repeated phone calls of this type could be anticipated to induce a victim to predict immediate and illegal violence.

- As a result, threats made over the phone may be considered an assault if the appellant has cause to think that they would be carried out in the near future to qualify as “immediate.”

5) **TUBERVILLE V. SAVAGE**²⁹

Brief facts of the case:

The defendant and the claimant had a verbal argument. The defendant told him that “if it were not assizes time he would not take such language”. At the time, the defendant's hand was on the hilt of his sword. The claimant filed an assault lawsuit against the defendant. The issue raised in this case was:

- Can assault be negated by words?

Judgment:

- The court ruled in favour of the defendant, ruling that there was no assault. Words have the power to negate an assault.
- Even though the defendant's actions appear to be menacing, a vocal declaration that he will not be violent might nullify that threat.

6) **R V. THOMAS**³⁰

Brief facts of the case:

The appellant was convicted of indecent assault of several minors. One of the convictions was for rubbing the hem of a 12-year-old’s skirt before she pushed him away. Appealing his conviction, the appellant argued that what he did was merely assault, not indecent assault. The issue raised in this case was:

²⁹ Tuberville v. Savage, 86 ER 684.

³⁰ R v. Thomas, (1985) 81 Cr App R 331.

- Was touching a girl's skirt 'indecent'?

Judgment:

- The Court of Appeal held that touching the hem of a girl's skirt was merely assault, not indecent assault.
- Ackner LJ clarified that touching a one's clothes while they are wearing it is equivalent to touching the person for the purposes of criminal offences which require touching.

7) R V. CONSTANZA³¹

Brief facts of the case:

A man was found guilty of assault resulting in actual bodily injury to a female ex-colleague. The man followed a woman, from her house to work for almost two years, made many discreet calls to her, sent 800 letters, went by her house, visited her house three times without permission and scratched nasty remarks on her door thrice. She received two further letters with a menacing wording, after these activities. A physician then diagnosed her with anxiety due to the dread of the behaviour and the writings of the man. The issues raised in the case were:

- Whether the words of the man alone could constitute an assault, without any physical action.
- Whether there was an anticipated risk of immediate and illegal violence sufficient to constitute an assault under Section 47 of the "offences Against a Person Act of 1861".

Judgment:

The Court ruled that even if there is no physical action, words alone can constitute an assault if they lead the victim to fear immediate harm. Concerning the temporal component of the victim's fear of violence, the Court ruled that it is sufficient to show that the victim feared violence "at some time not excluding the immediate future." The Court decided that this requirement had been satisfied by quoting both the man close to the house of the victim and

³¹ R v. Constanza, [1997] Crim LR 576.

his submission of the latest letters to her residence. As a result, the appeal was dismissed, and the conviction for assault causing bodily damage merely by words was affirmed.

8) DPP V. K³²

Brief facts of the case:

The defendant was a 15-year-old teenager who went to the restroom with a tube of acid after leaving his chemistry lesson. When he heard someone arriving in the restroom, he panicked and poured the acid into a hand drier. He then exited the restroom without telling anyone what he had done. Later, the defendant stated that he planned to clean up the acid at a later date. However, before he could do so, another individual was splashed with acid after using the hand drier. A charge of assault resulting in actual bodily injury was filed against the defendant. The issue raised in this case was:

- What mens rea is needed for someone to be convicted of assault causing actual bodily harm?

Judgment:

- The prosecution was found to be correct by the High Court. For assault occasioning actual bodily injury, recklessness suffices as the mens rea; the offender does not need to intend to injure anybody. This case also illustrates that a battery can occur even when the use of force is indirect and there is a delay between the defendant's conduct and the application of force to the victim. In this case, the victim was not sprayed with acid until for over an hour after the defendant dropped the acid in the dryer.

9) LOGDON V. DPP³³

Brief facts of the case:

The defendant frightened the victim by brandishing a toy gun at her. He then informed her that it was a fake. Assault was the charge levelled against the defendant. The issue raised was:

³² DPP v. K, [1990] 1 WLR 1067.

³³ Logdon v. DPP, [1976] Crim LR 121.

- Was the accused guilty of assault?

Judgment:

The defendant was found guilty of assault by the court. His actions had made the victim fearful of impending personal violence, and he had been unsure whether or not this would happen.

10) FAGAN V. COMMISSIONER OF POLICE FOR THE METROPOLIS³⁴

Brief facts of the case:

When Fagan was in his car, a police officer approached him, who told him to move the automobile. Just that, Fagan reversed his automobile and routed over the foot of the officer. When he was told by the police that he had to move the car off his foot, Fagan shouted at him, refused to move the car and shut the engine off. A police officer who performed her duties was found guilty of assaulting. Fagan subsequently lodged an appeal.

Issue raised: Fagan appealed on the ground that an aggressive attack cannot be committed and that it was unintentional to drive the officer on his foot, indicating that he lacked mens rea when the damaging conduct happened. The legal question here was whether the prosecution had established circumstances that amounted to an assault. Both actus reus and mens rea must be demonstrated for an attack to be committed.

Judgment:

- The failure to determine an assault was ruled.
- It was held that: “Although assault is an independent crime and is to be treated as such, for practical purposes today, assault is generally synonymous with battery.”
- It was ruled that Fagan's offence was not the unwillingness to move the automobile, but that he had committed a continuous act of violence by driving on to the officer's foot and refusing to stop. That led to the presence of the actus reus and mens rea and the committing of an assault. The conviction of Fagan had been reaffirmed.

³⁴ Fagan v. Commissioner of Police for the Metropolis [1969] 1 Q.B. 439.

CHAPTER VI - CONCLUSIVE ANALYSIS AND CRITICISM OF ALL CASES ANALYSED

This chapter aims to provide a combined and conclusive analysis of all cases discussed in the previous chapter. In examining the cases, the paper utilizes the two-step methodology that first, involves the study of the essentialities of the tort of assault to take place, secondly, to analyse whether the plea of assault is applicable in the present case.

In studying the case of *Bavisetti Venkata Surya Rao v Nandipati Muttayya*³⁵, The threat of using force against the plaintiff was too remote a possibility to have put the plaintiff in dread of imminent harm. As a result, it cannot be claimed that the goldsmith was going to use criminal force against the plaintiff, nor could the plaintiff have reasonably anticipated that the goldsmith was ready to use criminal force against him. It is not as if the defendant issued any instructions to the jeweller once he got on the scene, nor did the goldsmith do anything to give rise to a reasonable fear that he was going to forcefully take the plaintiff's earrings. There is no indication in this instance that there was an immediate or impending threat of use of force, making the defendant's behaviour an actionable wrong. As a result, the defendant is not responsible for assault.

Unintentional contact with a person or hurt inflicted to someone without any prior purpose to do so does not constitute assault. However, a person's attempt to injure another person, whether directly or indirectly, and failing to do so counts as Assault. Initially, it was thought that bodily gestures were required to cause assault, but this was later rejected by the House of Lords in the case *R v. Ireland*³⁶ which stated that that simple threatening words combined with the plaintiff's belief that the person making the threat has an evident power to hurt him are also considered assault. Assault can be perpetrated over the phone, via mail, by post, or in person.

If the threat conveys the fear of immediate and direct bodily contact, it is an assault regardless of whether the threat is made by deed, by deed and words, or by words alone. Words may sometimes unilaterally change or neutralise a threat created by a good deed. T laid his hand on his sword after an exchange of words with S in *Turberville v. Savage*³⁷ and muttered, "If it were not assize-time, I would not accept such language from you". These lines were spoken in order

³⁵ Supra Note 1.

³⁶ *R v. Ireland*, (1997) 4 All ER 225.

³⁷ Supra Note 28.

to prevent what would otherwise be an assault (placing his hand on his sword) from occurring. The court reasoned that T was effectively declaring that he would not assault S since the justices were in town.

It should be noted that in order for there to be a direct threat, there must be a positive offer of immediate bodily contact, either in fact or in speech. There is not much preparation for quick, physical contact, such as a gun purchase, a sharp knife or a thug, unless the defendant follows up with a promise of impending body contact, an attempted battery, or an attempted assault, as in *Read v Coker*³⁸.

The plaintiff's knowledge is also important to the issue of genuine and seeming ability to carry out the threat. In *Logdon v DPP*³⁹ (a criminal case), the defendant was convicted of assault for opening a drawer and showing a handgun to a VAT inspector while holding her hostage. When she inquired whether the weapon was loaded, the defendant replied in the positive. The weapon was not only unloaded, although it was a toy copy of a firearm. In dismissing the defendant's appeal against her assault conviction, the court ruled that the offence was committed when the threatener knowingly or carelessly induced the other to think that illegal force was about to be inflicted on her by some bodily act. It was the inspector's knowledge that was important, not the defendant's knowledge. There would have been no assault if the inspector had realised the pistol was not loaded or identified it as a toy imitation.

PART III

CHAPTER VII- CONCLUSION AND SUGGESTIONS

There is some ambiguity, if not outright ignorance, concerning the components of the intentional torts of assault and battery. This article sought to understand how the courts in developed countries, developed the “various requirements of directness”, “intentional acts”, contact, “knowledge of the contact”, “consent”, “threats”, “apprehension of imminent contact”, and “knowledge of the threat”. This paper also made an attempt to demonstrate how the courts in these various countries may be convinced by judicious use of precedents and reasoning to turn these torts into important tools for the preservation of a person's bodily and mental integrity. Battery can be used to protect anyone not only from real physical injury, but from

³⁸ *Supra* Note 26.

³⁹ *Supra* Note 31.

deliberate or negligent contacts, it is often seen as objectionable. An assault, however, protects a person from threats that cause him/her to expect immediate contact either by a threat or via a person who acts under the threat. Because the prospect of physical damage, and sometimes even the anticipation of mere physical contact, may be distressing for the person who is compelled to anticipate it, this tort is highly essential in safeguarding the mental integrity of the individual.⁴⁰

In light of recent advancements in paying victims of crime, the compensation role of these torts may be little less important now, but the other function remains vital. The classic torts of assault and battery, which have been updated to fit the changing requirements of our day, are so deserving of our attention, and it is important to dispel any misconceptions about them.

⁴⁰ A Casebook on Tort 3rd ed (1974) 256.

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