A. Polo Harris of Pleebo City, Sodoke District Maryland County, Republic of Liberia Appellee/Plaintiff Versus **Cavalla Rubber Corporation**, by and thru its General Manager, **John Y. Barkemeni, Gedetarbo**, Maryland County, Republic of Liberia Appellant/Defendant

LRSC 9

APPEAL FROM THE FOURTH JUDICIAL CIRCUIT, MARYLAND COUNTY.

Heard: August 29, 2012, & resubmitted October 17, 2012 Decided: January 3, 2013

Mr. Justice Ja'neh delivered the opinion of the Court.

A. Polo Harris, a resident of Pleebo City, Maryland County, and appellee in these proceedings, instituted an action of damages for wrong predicated on slander. Trial was conducted in the matter by His Honour, Nelson K. Tokpa, presiding over the November, 2008 Term of the Fourth Judicial Circuit Court of Maryland County. The petit jury, having been charged, retired, deliberated the matter and thereafter returned a unanimous verdict of LIABLE against Cavalla Rubber Corporation, the appellant in these appeal proceedings.

Discontented with the adverse verdict, Cavalla Rubber Corporation, the appellant, filed a four (4) count motion for a new trial. In the motion seeking a new trial, the appellant principally contended that the evidence adduced during the trial did not support the jury findings; and that the verdict was vague as the jury failed to make any distinction between slander and defamation in awarding damages. Appellant's motion for a new trial was resisted by the appellee, heard and denied by the trial court.

Thereafter, Resident Presiding Judge Nelson T. Tokpa, Sr., entered his Final Judgment in the case, affirming the verdict and the jury awards. Judge Tokpa, concluding his Ruling, stated as follows:

(l)t is the ruling of this court that the verdict returned by the empanelled jury ought to be confirmed and affirmed and it is hereby confirmed and affirmed by this court.

Accordingly, the defendant is adjudged liable to the plaintiff in both general and special damages in the amount of USD twenty-five thousand and three thousand two hundred two dollars, respectively. The costs and expenses in these proceedings [are further ruled} against

(the) Defendant Corporation. Accordingly, the clerk of court is ordered to prepare a bill of costs to be placed in the hands of the Sheriff of this court to be served on the defendant. AND IT IS HEREBY SO ORDERED.

Appellant excepted to Judge Tokpa's Final Judgment and tendered, for his approval, a bill of exceptions predicated on four counts. The duly approved bill of exceptions is quoted hereunder to wit:

1. That exceptions were taken by the defendant/appellant to the erroneous verdict of the trial Jury announced in open court on Tuesday, December 2, A.D. 2008.

2. That the Trial Jury failed to consider the instructions given [to] them by Your Honour upon request of defendant's counsel, on the quantum, weight and preponderance of [the] evidence requisite and necessary to prove a civil action.

3. That the Trial Jury failed to admeasure the amount of damages due for the alleged name calling and spitting on the plaintiff/appellee which are separate and distinct; and which name calling of (rouge), if ever made, was [not} substantiated by the testimony of three (3) witnesses in their corroborated testimony of apprehending the plaintiff with two (2) bags of rubber within the concession area, division number five (5), which testimony was not rebutted.

4. That the award of $28,402.00 United States Dollars as general and special damages was not proven and is inexorably excessive.

WHEREFORE AND IN VIEW OF THE TRIAL JURY'S VERDICT, being contrary to evidence adduced, to which defendant/appellant took exceptions, defendant/appellant herewith, respectfully tenders his Bill of Exceptions, for approval.

In our Opinion, the two issues germane to the questions raised by the appellant and dispositive of the case at bar, are as follows:

(1):Did the allegations as recited in the complaint by the appellee provide sufficient bases, both in law and in fact, to sustain an action of damages for wrong on slander?; and,

(2): Given the facts of this case and the laws thereto applicable, were the awards reached by the jury and subsequently confirmed by the trial court, in conformity with the quantum of the evidence the laws in our

jurisdiction require to sustain the said awards for special and general damages?

In these endeavours, we propose to speak to these issues in the order of precedence as presented. In our examination of the first question, this Court will attentively ruminate on the factual and legal sufficiency to maintain an action of damages for wrong consequent on slander, as the appellee, by instituting a damages action for wrong, has sought to achieve.

It must be said here that a positive answer to this first question before us is critical to a successful outcome of the suit instituted by the appellee. As to the factual adequacy to maintain this action, appellant to the contrary has forcefully contended same, not only in the bill of exceptions and the brief filed, but also during argument before the Supreme Court. We accept that if the wrong the appellee has complained of is not actionable per se, appellee's cause of action, in that case, cannot be properly maintained. Making this determination will therefore require a reversion by this Court to the records which were transmitted to the Supreme Court and certified under the seal of the trial court.

It is to be remembered that the appellant has robustly contended that the action of damages for wrong based on slander, on account of the averments made by the appellee and recounted in appellee's complaint, was not sustainable. It is appellant's argument that assuming, without conceding, that the words appellee complained of were in fact uttered, those expressions could not be actionable per se; in which case, the action of damages for wrong based on slander, appellant has insisted and maintained, lacked sufficient legal grounds.

Appellant's contention as narrated on this question imposes a duty on this Court to undertake a critical review of the records certified to us. An undertaking of such kind will aid this Court to ascertain whether the allegations set forth in the complaint constituted adequate factual and legal grounds to maintain this action of damages for wrong consequent upon slander, as done by the appellee in these proceedings.

A perusal of the transmitted records reveals that Appellee/Plaintiff A. Polo Harris, on September 3, 2008, filed a four (4) count - complaint at the Fourth Judicial Circuit, Maryland County, essentially recounting the following allegations: that he is both owner of real property and a

rubber broker in Maryland County; that his main line of business, both as a way of livelihood and a means to sustain and contribute to the Liberian economy, was the leasing and sponsoring of farms; that notwithstanding appellee's credible and honest reputation which he worked so diligently for many years to build, in a deliberate act to defame, ridicule, disgrace, humiliate and injure appellee's reputation, on July 10, A. D. 2008, while appellee was coming from his farms, with two (2) tons and one hundred fifty (150) kilograms of rubber loaded in his vehicle, Appellant Cavalla Rubber Corporation's security officers and agents, forno justifiable reason whatsoever, suddenly stopped the appellee at LIBSUCO Section Three, Pleebo; that the security headand ring leader of the Appellant Corporation, after stopping appellee, began to utter such words against said appellee as follows: "you are a rouge; you are a criminal; you stole (CRC's) rubber; that those utterances and expressions said against the appellee and made in the public, on their face, ascribed grave criminal conduct to the appellee; that these expressions were uttered in the presence and hearing of certain good and worthy persons, including Messrs. Winston Collins, Kla Brooks and Thomas Mensah.

The complaint further states that the security officer thereafter, forcibly and unlawfully seized appellee's rubber from his vehicle in the public and took away said goods into appellant's custody. It is appellee's complaint also, that after all efforts failed to convince defendant (CRC) by many good and worthy people to desist from such conduct and to return appellee's goods, appellee was left with no choice but to seek justice through the court system. The complaint also recounted that that appellee initially lodged a complaint before a magistrate court; that the magistrate court, afterlistening to the parties, ruled in favour of appellee and ordered the appellant (CRC) to return appellee's rubber to him; that the appellant (CRC) however elected to return only a portion of the rubber to appellee and that the balance of the rubber has remained with appellant (CRC), up to and including the date of institution of this suit at the Fourth Judicial Circuit, in total defiance of the Magistrate Court's orders.

It is these that have instigated the institution of this Action of Damages for Wrong (SLANDER), per se, against appellant. In support of the action, appellee attached photocopies of the magistrate court's documents in bulk, marked as exhibit A to form a cogent part of the

case records. It is welltomention, fortherecord, thatAppellee's amended complaint, subsequently filed on September 23, 2008, was substantially a restatement of the same averments contained in the original complaint.

As herein above stated, it is appellee's submission that expressions as you are a rogue, you are criminal; you stole (CRC's) rubber, are not only slanderous words but actionable per se. According to appellee; that those slanderous words when made against a person in the public, as was said to have been done to the appellee, tend to belittle, prejudice and impute guilt of crime to said person. The appellee has maintained that nothing could better warrant and maintain a suit of damages for wrong predicated on slander per se.

The complaint as lodged therefore concluded with the appellee praying the trial court, among other things, to hold the appellant (CRC) liable in damages for the false, defamatory and slanderous statement, maliciously made to the good and worthy name of the appellee in the presence and hearing of the public at large, and to award the appellee monetary compensation for damages done to him in the amount of US$25,000.00 (twenty-five thousand United States dollars), an amount the appellee considered sufficient to restore his prestige, his honour and reputation which have been seriously injured and degraded at the instance of the appellant, and to further recompense appellee for the great pain and mental anguish the appellee has suffered at the instance of the Appellant Cavalla Rubber Corporation.

Judging from the face of expressions as: you are a rogue, you are criminal; *you* stole (CRC's) rubber", reportedly made by the appellant against the appellee, a conclusion may be made that criminal conduct was imputed tothe person to whom such utterances were made. In our considered opinion, such a determination cannot be a subject o f any reasonable debate. Incriminating expressions as clearly set forth in the complaint, when made and attributed to the conduct of a person, no doubt would ascribe crimes and indictable offense to said person. Those utterances reportedly made against the person of the appellee, A. Polo Harris, would assail a person's good name and impute criminal characteristics to said person's conduct. When made as complained by the appellee, an action of damages for wrong contingent on slander is maintainable under those circumstances.

Our extensive review of the records in these proceedings leave us unimpressed by the appellant's argument attacking the existence of adequate basis for maintaining a cause of action on the strength of allegations the appellee narrated in the complaint. An expression or utterance, according to law writers, is deemed slanderous if it imputes the guilt of some offense for which the party, if guilty, might be indicted and punished by the criminal courts. In this jurisdiction, such an expression is actionable although the imputation of guilt [might] be general without stating the particulars of the pretended crime. [Our Emphasis]. Bakeh v. Greene, 14 LLR, 204, 206 (1960).

Actionable words, the Supreme Court of Liberia has said, are of two descriptions: first, those actionable in themselves, without proof of special damages; and secondly, those actionable only in respect of some actual consequential damages. According to our highest Court, Words of the first description must impute: First, the guilt of some offense for which the party, if guilty, might be indicted and punished by the criminal courts although the imputation of guilt [may] be general without stating the particulars of the pretended crime, it is actionable.

Of the second class are words which are actionable only in respect of special damages sustained by the party slandered. In this case special damage is the gist of the action, and must be particularly specified in the declaration. Ibid. 206.

Applying this principle of law to the case at bar, appellant's contention that expressions such as you are a rogue; you stole rubber, when uttered against a person, cannot be a sufficient basis for sustaining an action of damages for wrong rested on slander, has to crumble. To the mind of this Court, when utterances, as laid out in the complaint, are uttered and made against a person, no doubt impute criminal conduct and commission of a crime to said person. Utterances of those sorts are clearly defamatory per se, and the person whose name has been assailed may maintain an action of damages for wrong established on slander. It being the law in this jurisdiction that a prerequisite to sustaining an action of wrong based on slander is that the offensive expression must have falsely accused the party claiming to have been defamed of commission of a crime. African Mercantile Agencies v. Bonnnah, 26 LLR, 80, 89 (1977); Bakeh v. Greene, 14 LLR, 204, 211 (1960).

The case, Bakeh v. Greene, which we will return to later in this opinion, is instructive on this point. This Court, in that Opinion, held as actionable per se where the words said to have been spoken charged the plaintiff with an indictable offense or tend to render said party odious or ridiculous in his personal or business relations. lbd. 211.

The expressions made against the appellee in that case, which we have determined and found to be similar to the case at bar were:you are a bloody rogue; you stole the church money to build your two concrete houses. The Supreme Court found those expressions as sufficient grounds to maintain an action of damages for wrong founded on slander. The words: You stole the church money were determined to be slanderous per se.

We uphold that principle and find it properly applicable to the circumstances and facts of the case at bar. Utterances as you are rogue; you stole (Cavalla Rubber Corporation) rubber, alleged to have been made by appellant against the person of the appellee, reportedly said against the appellee in the full glare of worthy persons of the community, expressions which had the tendency to defame by ascribing the commission of a criminal offense to the name of said person, are slanderous per se. By assailing the name of a person in the manner as reported herein, the slandered person is ordinarily humiliated and ridiculed, and to an extent subjected to public scorn, ridicule and discomfort. When they are made, such utterances would constitute sufficient legal justification to maintain and support an action of damages for wrong.

Under the facts and circumstances of this case, and the laws appertaining, the utterances recited here being under a category of slander per se, would maintain the action the appellee has instituted. Therefore, appellant's contention, in the opinion of this Court, that the alleged naming calling of appellee as a rogue, you stole rubber, does not form a sufficient legal basis to institute a damages suit for wrong on slander is unsupported by law. Clearly, where the words spoken are unarguably actionable per se, as in the case before us, such expressions are adequate to sustain an action of damages for wrong on slander. And we so hold without any further elaboration.

On the second and final question, whether the awards for general and special damages concluded by the trial jury and subsequently validated

by the presiding judge, conform to the quantum of the evidence the laws require, we once again take recourse to the records before us.

As earlier indicated, His Honour, Judge Nelson Tokpa, in his Final Ruling, dated December 10, 2008, affirmed the verdict returned by the empanelled jury. Judge Tokpa also confirmed the award as appellant's liability to the appellee in the amount of USD$25,000.00 (twenty five thousand United States dollars) for general damages. The judge further affirmed the award of USD$3,202.00 (three thousand two hundred two United States dollars) as special damages for the appellee, thereby awarding appellee a total amount of US$28,202.00 (twenty eight thousand two hundred and two United States dollars).

The appellant has disagreed as well as questioned the basis of these awards. Both in their brief and during appearance before us, Appellant Cavalla Corporation has forcefully contended that the quantum of the evidence introduced by the appellee during the trial did not justify the awards for special or general damages, on the one hand, nor commensurate with the injury the appellee complained of, on the other hand. The appellant has principally contested the award for special damages insisting that the said award was totally unfounded. In support of this position, the appellant has articulated the point that at the time of the incident and seizure of the rubber on July 10, 2008, the buying market rate for one (1) ton of rubber, was USD$1,098.00 (one thousand ninety-eight United States dollars).

In the face of this strong challenge mounted by the appellant against the legal propriety of the award made for special damages, it is appropriate for this Court to consider the twain issue of special and general damages. This we seek to do by examining and reviewing the evidence appellee adduced during the trial and in consideration thereof determine whether there exist adequate grounds for proper authorization of the awards. This undertaking will aid this court to establish also whether appellant's challenge launched against these awards is substantive and grounded both as to the facts of the case and the laws thereto applicable. In the light of the appellant's arguments, let us consider the quantum of the evidence deposed by the appellee in support of the complaint.

According to the records before us, two witnesses testified at the trial in support of appellee's action of damages for wrong based on

slander. Appellee himself was the first witness. Witness Harris, testifying in chief on his own behalf, told the trial court and jury that he is a businessman who controls three rubber farms at Bolobo siliken, situated in Pleebo. He narrated that on July 10, 2008, while carrying two tons one hundred and fifty kilos of rubber from one of his farms in his car, he ran into a road block around section three, LIBSUCO, mounted by Appellant Cavalla Rubber Corporation's security officers. He said that he was stopped at the road block and Appellant security officer questioned him about the ownership of the rubber in his car. According to the witness, he told the security officers that the rubber he was carrying belonged to him, A. Polo Harris. But the officers said that they did not believe him; that the rubber loaded in the car intact, belong to Appellant Cavalla Rubber Corporation. The witness further narrated that he did not agree with the officers and forcefully insisted that the rubber in his vehicle was from his farm and was indeed his legitimate property. At that juncture, according to the testimony, strong arguments ensued between the witness and the Cavalla Rubber Corporation's officers. The arguments created a scene and attracted the attention of people of the surrounding villages who came rushing to the scene and to find out what was actually happening. The witness further told the court that when people from the villages came around, curious as to what actually was happening, and in that public place, one of CRC's "security men by the name of Saturday told me that I am a rouge, you are a criminal, you stole CRC rubber; at the end of his statement, he wasted spit on my face among those people for my own rubber.

The witness also the trial that he proceeded thereafter to Pleebo Magisterial Court where he lodged a complaint against the appellant corporation. The Magisterial court sent a letter of invitation to Appellant CRC's Chief Security Officer, one Mr. Dahn who, according to the witness' account, did not attend. But the CRC officer subsequently showed up after receiving the second letter of invitation from the Magisterial Court.

Witness Harris further explained that the magistrate required him (Harris) to convince the magisterial court of his ownership of the rubber. To do this, the witness explained, he had to bring to the court the owners of the farms, from whom he was gettinghis rubber. During investigationat the Magisterial Court into the ownership of

the rubber, the witness said that he explained in open court as to where the rubber came from. Said account was corroborated by those private farm owners, according to Witness Harris. Notwithstanding, Appellant CRC's security officers insisted that the witness had no farm and did not operate any rubber farm. The security officers maintained that Witness Harris' story was untrue. Further testifying, the witness stated that the Magisterial Court, at this point, requested him (Witness Harris) to provide further convincing proof to the court about his legitimate ownership of the disputed rubber. The Magisterial Court required that I should carry them on my farms; the Sheriff of the magisterial court, two representatives from Broker's Union, one National Police along with two representatives from CRC security. I chartered four motorbikes and I carried them in the town; the Chief and his elders gave five representatives and I carried [all of] them on those farms. We took some rubbers from those farms and we carried them to the magisterial court. The magisterial court asked them, [the CRC officers]: are you putting tree bark [on the rubber belonging to CRC] and they told the magisterial court 'no'. The magisterial court told them [the officers] that the rubber in dispute could not possibly belong to CRS as the rubber carried tree bark identification marks. The court then said: So you have to release the rubber.

But according to the witness, appellant security officers elected to return only one ton, nine hundred thirty-one kilos and to withhold the balance two hundred and nineteen kilos of rubber, which, according to the witness, remained with the Appellant CRC up to the institution of this action. The witness concluded his testimony by saying: They made me to enter into lot of expenses, damages and big public [humiliation].

Appellee's second witness, Thomas Mensah, also Pleebo City, Maryland County, testified in chief as stated:

I am a motorcyclist. On my way from old Tebeken border, I got flat tyre at LIBSUCO Section Three. So I went back to the nearby houses. While there, I heard noise from the intersection and I went there, [where the noise was coming from].When I got there, I met people and among these people I saw Polo Harris and the CRC security in serious argument; where the CRC security[officers] were claiming Polo Harris' rubber he was bringing to town for sale. At this point of argument, one of the security officers named Saturday went right in

front of Polo Harris and told him that you are a rough, you are a criminal, you stole CRC rubber; and saying this, he spate in the man's face. While they were still hauling and pulling, one of the CRC cars came and loaded the rubber for which they [were] arguing and went away. I went back for the fixing of my tyre. That's all I know.

This was the gist of the testimonies appellee's witnesses deposed during the trial. The highlights of the testimonies deposed by the witnesses in supporting appellee's cause of action may be summed up as follows: that Appellee Harris is engaged in rubber business, by operating rubber farms and also buying rubber from other rubber farmers; that while transporting some rubber in his car on July 10, 2008, he was stopped by appellant security officers and the rubber loaded in his vehicle removed and taken away by Appellant Cavalla Rubber Corporation's security officers; that these security officers in their encounter with appellee at the road block said officers had mounted, caused a scene which attracted a public gathering; that arguments ensued between him and the security officers in regard to the ownership of the rubber in appellee's vehicle; that during the argument, appellant security officers assailed appellee's good name by such utterances as "you are a rogue; you are a criminal; you stole [CRC's] rubber"; Appellee says that those expressions on their face, clearly and undoubtedly ascribed criminal conduct and imputed commission of crimes to his person; that one of CRC's security men, during what the heated argument between the parties, spate his saliva into appellee's face; that all these criminal name calling and spitting of saliva on the face of the appellee, much to appellee's humiliation and disgrace, took place in the full gaze of the public; that appellant's officers also seized and illegally took away appellee's rubber; that the confiscated rubber was carried by CRC's officers and placed into appellant's custody; that CRC's officers subsequently returned only a portion of the confiscated rubber, in partial obedience to the order of the Magisterial Court to return to appellee the entire rubber seized by appellant security officers; that appellee therefore instituted this action of wrong predicated on slander believing that the incident as recounted provided adequate grounds for a court of law to award him both general and special damages. Appellee sought general damages on account of the slanderous expressions attributing to him indictable criminal offense, while the award for special damages is being prayed for in order to compensate the appellee for the rubber Appellant CRC's security officers seized

from the appellee and turned over to the Appellant Corporation and refused to return to the appellee in outright defiance of the order issued by Pleebo Magisterial Court to return the whole quantity of rubber as seized.

These were the testimonies deposed by the witnesses testifying for the appellee. But not only did Appellant challenge the factualand legal sufficiency of the evidence adduced by appellee, Appellant CRC also sought to impeach the credibility of those testimonies.

For its part, and further seeking to impeach the credibility of the testimonies offered by appellee's witnesses, the Appellant Cavalla Rubber Corporation introduced three (3) witnesses. The witnesses, Dekonti Wesseh, Harrison Toe and Tugba D. Thomas, were all officers of the Appellant Cavalla Rubber Corporation.

In their general testimonies before the trial court, appellant's witnesses identified themselves as being the assigned officers· at the road block/check point, who stopped Polo Harris and his vehicle and took away the rubber loaded in his vehicle.

On direct examination, Witness Wesseh indicated that he was not alone during the time the rubber in question was taken away. He said that CRC's Security Officers, Harrison Toe and Thomas Togba, were also present. Witness Wesseh's testimony, which was essentially corroborated by appellant's other witnesses was basically as follows:

On the 10th of July 2008, at 8:15 on my patrol at the plantation, he received information that rubber for the plantation was being stolen. Acting on this information, the witness went to the scene to search. There he reportedly met Polo Harris and Kla Brooks loading rubber from the plantation unto a Kia motor. On cross-examination, the witness denied having any knowledge of any CRC's officer by the name of Saturday. CRC's officers conducted preliminary investigation and concluded that the suspect be taken to court for committing a criminal offense. On the issue of identification of CRC's rubber from the rubber of other plantations in the area, the witness indicated that the CRC as a company uses blue dye to distinguish its rubber.

Patrolman, Harrison Toe, also testified that Mr. Polo Harris was arrested when he was seen loading rubber into his pickup after they received information that CRC's rubber had been taken away by

unknown persons. Witness Toe explained to the court and jury that they (CRC's officers) first seized two (2) bags and waited in the bush for the suspect to come back and pick them up. He said they were ten (10) security personnel on duty during the arrest in division five (5). He denied that the security officers had any serious argument with Polo Harris. He also denied seeing anyone insulting or spitting on Mr. Harris. On identification of CRC's rubber, the witness said that CRC has yellow and blue dye as marks of identification on its rubber.

The witness vehemently denied ever being called by any court of law after the incident of July 10, 2008, on account of any complaint. He admitted that they took the rubber in question and carried it away in their pickup and that they were followed by Mr. Harris. He insisted that there were no other farmers in the area.

The testimony of Patrolman Togba Thomas, appellant third and last witness, was essentially a restatement of the accounts narrated by the two previous witnesses.

When both parties rested, in toto, with the production of evidence, Judge Nelson Tokpa charged the jury. Thereafter, the jury retired in their room, deliberated the matter before them and returned a verdict of liable against the Appellant Cavalla Rubber Corporation.

As can be seen from the various testimonies offered by the parties, the main question to be provided answer at this stage is whether appellant's contention that appellee failed to prove its case is sustainable under the facts and circumstances of this case.

We see it otherwise. Ordinarily, it is the law in our jurisdiction that a plaintiff in damages action for wrong must offer proof at trial to authorize proper finding of award by a petit jury for general and special damages. Firestone Liberia, Inc versus G. Galimah Kollie, March Term (August 17, 2012); Townsend versus C.V., Dyer Memorial Hospital, 11LLR 288 (1952); Monrovia Tobacco Corporation versus Flomo, 36 LLR 523, 527-8 (1989); Liberia Logging and Wood Processing Corporation versus Allison, 40 LLR 199, 206 (2000). This settled and controlling principle of law in our jurisdiction, articulated in numerous opinions of this Court, is further accentuated by Mr. Chief Justice Lewis, in an Opinion of this Court in the case: Martin Dagoseh, et al versus The Management of the National Social Security and Welfare Corporation and Monrovia Breweries, Inc., decided March Term,

(2007).This principle of law epitomizes the point that mere allegation of injury by a party, without proof, is simply insufficient to grant an award. Within this context, a complainant is mandatorily required to prove the injury he complains of and also demonstrate, according to Mr. Justice Russell, that he has been damaged to a sum commensurate with the amount claimed as damages. Itoka versus Noelke, 6 LLR 329, 332 (1933).

But this standard requiring specificity of proof of injury as a general principle of law which also obligates a plaintiff to demonstrate that the award made for damages is commensurate with the injury suffered, technically speaking, is relaxed where, as in the instant case, the wrong complained of is actionable per se. It being the law in this jurisdiction that where the action of damages for wrong is contingent on actionable conduct per se. ln the instant case, slanderous expressions, you are a rogue; you stole CRC's rubber, are actionable per se as these utterances on their face clearly impute and ascribe to the slandered person an indictable criminal conduct. Bakeh v. Greene, 14 LLR 204 (1960).

As we said earlier, Bakeh v. Greene, is a case instructive on this question. In that case, the appellee, Zachariah T. Greene, who also was from the City of Pleebo, Maryland, same as Appellee Polo Harris, in the matter at bar, constructed a number of houses in Pleebo City. An altercation took place between Zachariah Greene and Solomon Bakeh.

Mr. Bakeh was one of the tenants in Mr. Greene's buildings. During the quarrel, and in the presence and hearing of some persons in the public, Tenant Bakeh uttered such words against Mr. Greene as the following: you are a bloody rogue; you stole the church money to build your two concrete houses.

Aggrieved by Bakeh's utterances to him which clearly imputed unto him the commission of crime, Mr. Greene instituted an action of damages for wrong predicated on slander against Mr. Bakeh. The jury returned a verdict in favour of Appellee Greene awarding him damages in the amount of $1,500.00 (one thousand five hundred dollars).

On appeal, Appellant/Defendant Bakeh energetically contended that the expressions he was alleged to have uttered were not actionable per se. According to Bakeh, an action of damages for slander, as instituted by Appellee Greene was not sustainable in a court of law on account of those expressions.

But in disposing of the appeal, this Court disagreed with Appellant Bakeh. The Supreme Court, terming the appellant's contention as untenable, held that words expressed are actionable *per se* where the spoken words charged Appellee/Plaintiff Greene with an indictable offense or tend to render him odious or ridiculous in his personal or business relations. lbd.211.

In the referenced case, the expressions You are a rogue; You stole the church money" were deemed by the Supreme Court and held as slanderous perse. We find this principle properly applicable to the circumstances and facts of the case at bar. Utterances as you are rogue; you stole (Cavalla Rubber Corporation) rubber", believed by the trial jury to have been made by appellant against the person of the appellee, made in the presence of worthy persons of the community, expressions which defamed and undoubtedly, ascribed the commission of a criminal offense to the name of appellee, was slanderous and actionable per se. By assailing the name of a person in the manner as reported herein, some ninety years ago a person is ordinarily humiliated and ridiculed, and to an incalculable extent, subjected to public scorn, ridicule and discomfort. When such utterances are made, as in the instant case, this Court in 1922, some ninety years ago, held in the case: Wooding & Company versus Gibson, reported in 2 LLR 409, 412 (1922), as follows:

where the words spoken are actionable in themselves, as for instance where the matter charged amounts to an indictable offense, or tends to render the party slandered odious or ridiculous or comes home directly to the business of said party as to charge an official of Government with committing an act of official conduct, as was laid in the complaint filed in this case. In all cases, the plaintiff need not prove special damages; [the damages] arise by inference of law." [Emphasis Supplied]. Inference, according to Black's Law Dictionary (Ninth Edition, 2009), is a conclusion which is arrived at by consideration of other facts and deducing a logical consequence from them.

In the case before us, Appellee Harris is believed by the trial jury to have been slandered in the full gaze of the public, in the midst of his fellow residents and town dwellers. From making such utterances as you are a rogue, you stole rubber, a reasonable inference may easily be mad and an inevitable conclusion reached that the slandered person's good name, business reputation, social standing has been assailed; that such utterances made in public against the appellee in the instant case

have the natural consequences of not only humiliating a person, but also, tend to damage and undermine his standing as a reputable community dweller not only in the community he resides, but probably far beyond. Such utterances deeply offend a person's business name and reputation as well.

It is rather difficult for one to successfully argue or contest the unembellished reality that under the general scheme of things, hardly would any rational person opt to engage in business partnership with a person said to be a criminal, a rogue. This ordinary course of affairs explains why the law requires no hard evidence to prove that injury has been sustained to a person's reputation when incriminating expressions as you are a rogue; you stole the church money or you are a rogue, you stole rubber, are uttered against said person. No demonstrative proof of damages arising from such utterances is required by law where these kinds of expressions have been made. The wrong complained of and the damages arising from such expressions are ascertainable by consideration of the ordinary harm, humiliation and embarrassment those expressions would naturally place on the person.

In the same vein, the law also does not require a person whose name has been assailed to present specific loss or demonstrate the inconvenience, humiliation and embarrassment sustained in order to justify the quantum of the award. The depth of injury suffered by the slandered party in every such instance is determined by the trial jury by means of inference. That is to say, the jury is the body granted the legal authority to situate itself in the mental state of the injured party, whose name has been assailed, assaulted and humiliated in public, by being referred called a criminal, and authorize for him monetary compensation the jury believes to be adequate in restoring him to his previous state of respect and credibility.

In the case at bar, Appellee A. Polo Harris was said to be active businessman, primarily engaged in buying and selling rubber in Maryland are critical and important elements one must possess in order to succeed in such enterprise. To call such a person in the full glare of the public incriminating names as a rogue, as was done to appellee, unarguably hurts said person's name, his reputation, his character, with far negative implications on his standing in the community. Name calling as such also has the tendency to injure the person's standing as a businessman. So where, as in the case before us, a situation deemed as

actionable per se obtains, the measure of depth and level of injury in name, reputation, business standing of the injured person is made by inference. To say what should be awarded to the injured party to restore said party as much as possible, to his previous standing and reputation, is a province the law has assigned to the jury. King v. Williams, 2 LLR, 219, 225 (1916); Mullibah v Edwards, 14 LLR 313, 316 (1961).1t is the jury that has the authority to restore the party through monetary compensation to the standing previous to the injury. So unless there is clear showing of an abuse of this authority by a trial jury, this Court will not disturb the jury findings and the awards thereon made.

With all that has been set forth, Appellant CRC has vehemently contended that the evidence adduced by the appellee during trial was simply insufficient to warrant the verdict and the awards therein stated. Again we find ourselves unable to agree with appellant's challenge directed against the adequacy of the evidence introduced by appellee to justify the verdict returned by the trial jury.

After Appellee Harris rested with production of evidence, appellant took the stand to refute appellee's testimony that no such utterances such as You are a rogue, you stole (CRC's) rubber" were ever made against the appellee. Other than the lone and uncorroborated denial by Witness Harrison Toe, that such expressions were never made, appellant's testimonies were replete with inconsistencies and contradictions. For instance, Officer Wesseh's testimony contradicted those of patrolman Harrison Toe and Togba Thomas. During his testimony, Officer Wesseh told the court that three (3) officers were assigned in the area where the incident occurred; whereas, Patrolman Toe testifying said that there were in fact ten (10) officers assigned in the area at the time of the arrest. Another apparent contradiction also was the account of Officer Wesseh. According to Officer Wesseh, they arrested Polo Harris when he was loading the KIA motor with rubber; but, Patrolmen Toe and Thomas informed the court that they saw two (2) bags of rubber in the bush and decided to hide themselves until they saw the rogue, who turned out to be Polo Harris, coming in the KIA motor truck with rubber therein. It was at that point, according to Witness Wesseh, the officers arrested Polo Harris and also confiscated the rubber on board the Kia Motor.

Another piece of the general testimony which may have rendered the testimonies of appellant's witnesses least credible to the jury was the

denial by appellant of any knowledge of a security officer by the name of Saturday. It would also seem that the stringent denial by appellant's witnesses that CRC's officers were never summoned to appear before a court, in the face of the extensive records of the magisterial court to the contrary, further undermine the credibility of appellant's witnesses and the testimonies they adduced at the trial.

Against this back drop, as well as in the face of the preponderance of the evidence adduced by appellee's witnesses tending to showthat Appellant's Security Officers, while on assignment and duly performing their security duties, made utterances to appellee which clearly impute commission of crime to said appellee, a verdict finding appellant liable would appear warranted under these circumstances. This Court cannot properly set aside a verdict reached by the jury given these facts and circumstances. It being the law in this jurisdiction hoary with time that it is the province of the jury to consider the entire testimony, estimate and weigh its value, accept, reject, reconcile, and adjust its conflicting parts and be controlled in the result by the part of the testimony which it finds to be of greater weight. Under our law, the jury is the exclusive judge of the evidence, and must in reason be the exclusive judge as to what constitutes the preponderance of the evidence. Where the jury has reached a conclusion following full consideration of the evidence adequate to support a verdict, the decision ought not to be disturbed by the appellate court. American Life Insurance Company, Inc., versus Holder, 29 LLR 143, 165 (1981); Liberian Oil Refinery Company versus Mahmoud, 21 LLR 201, 214 (1972); Beysolow versus Coleman, 9 LLR 156, 160 (1946); Dagber versus Motley, 26 LLR 422, 427 (1978); Liberia Tractor and Equipment Company (LIBTRACOJ versus Perry, 38 LLR 119, 127 (1995); Momolu versus Cummings 38 LLR 307, 314 (1996); Haider versus Kassas, 20 LLR 324, 329 (1971).

One should also consider the total facts obtaining in the case at bar. The records indicate that even after the imputation of indictable crime to the conduct of Appellee Polo Harris, there is showing, and the jury appeared to have believed, that Appellant's employees proceeded to further humiliate Appellee by publicly spitting in his (appellee's) face. To do this ordinarily subjects a person to immeasurable level of humiliation and no further evidence is required to demonstrate that said person was indeed subjected to, and did suffer injuries and incalculable humiliation.

One may argue, as appellant has done, at least in passing, that the action complained of, slanderous expressions as well as spitting saliva into appellee's face, was an unauthorized conduct of security officers in the employ of the appellant corporation; that these officers, after all, were not instructed to conduct themselves as such; hence, it would be legally improper to hold the appellant corporation accountable and liable for the wrongful and unauthorized behaviour of its employees, the security officers.

On the issue of holding Appellant Corporation liable for the conduct of its security officers, it is generally held that the principal is not customarily held liable for the wilful acts of his agent which conduct results to the injury of another. While this is that is the ordinary standard, the case before us, however, presents an exception. The exceptions to this standard of general application are that a principal may be held accountable where the agent's act is originally commanded by the principal, or the agent's conduct was subsequently assented to by the principle.W.D. Wooding & Company v. Gibson, 2 LLR 409, 412 (1922).

Under this principle, again the evidence appeared to justify the jury awards of general damages. For what precisely obtained in the case at bar appears to fall in the category of one of the exceptions to hold the principle accountable: subsequent assent to the conduct of the security officers.

The facts were incontrovertible that appellee's rubber was seized by duly employed security officers of Appellant Corporation. There was preponderance of the evidence showing that the seized rubber was also taken to appellant's security headquarters, and the product of illegal seizure remained with appellant and apparently utilized to appellant's benefits. Even after the Magisterial Court ordered Appellant security officers to return the rubber, Appellant Corporation complied only partially to said court's order. Appellant CRC defiantly kept part of the seized rubber up to, and including the time the action of damages for wrong was instituted.

As the records further demonstrate, Appellant CRC not only neglected and failed to take any action to distance itself from the unwarranted conduct of its employees and security officers, a conduct that was actionable per se, appellant in fact assented to the illegal conduct and

became a beneficiary thereof as it refused to fully comply with the order of the Magistrate Mah, II, who took time and instituted initial investigations into the actual ownership of the seized rubber.

We will now examine the issue of special damages at this juncture. This undertaking is made with a view of determining whether appellant's contentions that appellee did not carry the burden of proof to warrant the awards of US$3,202.00, have any factual or legal merits whatsoever.

It is well to remark that special damages must always be specifically pleaded and proven by the plaintiff. Dopoe v. City Supermarket, 34 LLR 343, 353 (1987); Lerchel v. Eid, 34 LLR 648, 664 (1988); Townsend v. C.V. Dyer Memorial Hospital, 11 LLR 288 (1952;).

While no specific proof is required for damages suit based on slander, considered as general damages suit, where appellee has pleaded special damages, as in the instant case, for seizure of his rubber and has attached monetary value to the seized property, it is legally incumbent on him, the claimant, to provide proof to justify award therefor. We must be reminded that Presiding Judge Nelson Tokpa, in his final ruling, affirmed USD$3,202.00 (three thousand two hundred two United States dollars) as special damages for the appellee.

But appellant has also contested the said special damages award. Appellant has insisted that the award for special damages was unwarranted because the market rate for one (1) ton of rubber at the time of the incident was USD$1,098.00 (one thousand ninety-eight United States dollars). We have however observed from inspection of the records that the alleged market value submitted by the appellant is not substantiated by any documentary evidence. Nor did appellant introduce any proven quantity of the rubber seized from the appellee by its security officers, or a showing by the appellant the actual quantity of rubber returned to the Sheriff as directed by the Magisterial Court.

So what burden of proof appellee proffered to justify the special damages award for the quantity of rubber which remained seized by appellant as well as the value of USD$3,202.00 (three thousand two hundred two United States dollars), same being the representative actual market value of the confiscated rubber.

Perusal of the records clearly indicates that the parties are in agreement, on the strength of their respective testimonies, that appellee carried rubber in his vehicle on July 10, 2008. Also, no dispute is recorded as to the fact that the said rubber of appellee was seized by appellant security personnel and that the confiscated rubber was in fact taken to appellant's warehouse and placed under appellant's

custody. According to appellee, the quantity of rubber seized from him was two (two) tons and one hundred fifty (150) kilograms Appellee stated this figure, two tons and 150 (one hundred fifty) kilograms, as the quantity of his rubber, both in his complaint lodged before the Pleebo Magisterial Court as well as in the formal complaint filed at the Fourth Judicial Circuit of Maryland County. This figure is also stated in the release order issued by Magistrate A. Boyee Mah, II, ordering Appellant Corporation to return to the court officer.

The Order of Release, dated 24th day of July, 2008, addressed to the Ministerial Officer of Pleebo Magisterial Court, substantially stated as follows:

You are hereby commanded to proceed from your office and receive the two tons and 150 kilograms of rubber that the security of the Cavalla Rubber Corporation illegally seized from Mr Polo Harris on Thursday, same being the 17th day of July A.D. 2008. The case was brought into this honourable court and all those involved were summoned and investigated and it was clearly proven beyond all reasonable doubts that the rubber is the legitimate property of Mr. Polo Harris. As such, you are empowered to receive said rubber from the security depot of CRC and turn same to the owner, Mr. Harris. IT IS HEREBY SO ORDERED.

The records further reveal that the appellant elected to partially obey the Magistrate Court's order. According to appellee, Appellant Corporation returned only a part of the two tons and 150 (one hundred fifty) kilograms of the seized rubber, in outright defiance of the Magistrate Court. The Appellant CRC is said to have kept seized in its custody, a total of 219 (two hundred nineteen) kilo grams of rubber.

Therefore, as we said earlier in this opinion, considering appellee's claims as to outstanding quantity of rubber, as well as coupled with the magistrate's order as to the total quantity of the seized rubber, part of which was returned by the parties' accounts, and absent any contrary evidence from the appellant as to the exact quantity of rubber in its possession, the figure of 219 (two hundred nineteen) kilograms must be taken as the balance rubber the appellant is withholding.

At the same time, the parties are at variance and disagreeable as to the value of the remaining rubber. Appellant has submitted that the market value of a ton of rubber at the time of this incident was US$1,098.00 (one thousand ninety eight United States dollars). On the other hand, the appellee submitted into evidence a receipt tending to show the purchase of 1,931 kilograms (one thousand nine hundred and thirty one kilograms) of rubber at 889,415 CFA value. When one divides 889,415 CFA by 1,931 kilo grams of rubber, you end up with the figure of 460.59 as the CFA value per kilo gram of rubber. Further dividing 460.59 by 50 CFA, 50 CFA being the estimated value of US$1.00 (one United Stated dollars), the value of 1 kilo gram of rubber on the average would stand at US$9.20 (nine dollars and twenty cents).

Further multiplying the balance rubber of 219 kilograms by US$9.20 (nine United States dollars and twenty cents), you will arrive at net amount of US$2,017.41 (two thousand seventeen United States dollars and forty one cents). It must therefore be concluded that the value of the 219 kilo grams of rubber is the full amount of US$2,017.41 (two thousand seventeen United States dollars and forty one cents), and not US$3,202.00 three thousand two hundred and two United States dollars) as reached by the jury and erroneously affirmed by the trial judge. It is the law in this jurisdiction that appellee be awarded special damages in the amount proven by the evidence adduced.

In numerous cases including Joseph Hanson & Sochne (Liberia) Ltd. v. Tuning,17 LLR, 617, 619 (1966); Liberia Mining Co. v. Zwannah, 19 LLR, 73 (1968); Kassabli v. Cole, 19 LLR, 294, 297 (1969), this Court sustained special damages to the extent supported by the evidence.

Hence, the final judgment amount entered by Judge Tokpa is ordered reduced by US$1,184.59 (one thousand one hundred and eighty four United States dollars).

As the final arbiter of justice in the land, this Court has the full authority to render judgments which the trial court should have rendered. Townsend v. Cooper, 11 LLR 52 (1951); Lamco J.V. Operating Company v. Rogersand Wesseh, 29 LLR 259, 267 (1981). Hence, there will be no compelling necessity, given the long

period this case has already dragged on in our system, to remand same for the purpose of correcting the award on special damages.

Having the authority to enter the ruling and final judgment the trial court should have properly entered at the conclusion of a trial, and exercising said authority in conformity with the facts of the case, the evidence presented and the laws thereto applicable, and this Court, having carefully reflected and critically examined the entire circumstances obtaining in this case, it is hereby adjudged that the final judgment rendered by Judge Nelson K. Tokpa, be, and same is hereby affirmed with modification as to the judgment awards. It is adjudged further that the appellee also recover the statutory interest of annual 6% (six percent) on the special damages award, as modified in this opinion. The statutory interest shall commence as of the date of the seizure of Appellee Harris' property, same being July 10, 2008, to the date of satisfaction by Appellant Cavalla Rubber Corporation of this Final Judgment.

The Clerk of this court shall issue a mandate to the court below, in which this case was tried, to resume jurisdiction over the cause to the effect of this judgment. AND IT IS SO ORDERED.

Counsellor Scheaplor R. Dunbar appeared for the appellant. Counsellors Moses Kron Yangbe Sr. and Nyenati Tuan appeared for the appellee.