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The Magistrates Court in Jerusalem
Civ. 18287/95
Al-Hawari v. Laks
Opening date: 23 October 1995

At the Magistrates Court in Jerusalem

In the matter of:

_____ **Al-Hawari**

represented by attorneys Badrah Huri and/or Hala Huri
and/or Muhammad Bourgal
of HaMoked: Center for the Defence of the Individual
founded by Dr. Salzberger
4 Abu Obeidah Street, Jerusalem
Tel. 02-283555; Fax 02-276317

The Plaintiff

v.

1. _____ **Laks, Commander of the Qezi'ot prison in the Negev**
2. **The State of Israel**

both represented by the Jerusalem District Attorney's
Office
4 Yedidya Street, Jerusalem

The Defendants

Nature of the claim: **Bodily Injuries**

Amount of the claim: **NIS 72,037**

Complaint

1. The Plaintiff, who was born in 1968 and is a resident of Sabastiya village, Nablus District, shall be represented in this action by the foregoing counsel, and his address for service of process is as aforesaid.
2. Defendant 1 was at all times relevant to this complaint the commander of the Qezi'ot prison in the Negev (hereinafter: the Prison), and as such was in charge of the Prison and responsible for the release of prisoners.
3. Defendant 2 was at all times relevant to this complaint in charge of the Prison and/or in charge of the management thereof and/or supervisor of the orderly functioning of

the Prison including, *inter alia*, the release of prisoners at the end of their period of incarceration.

4. The Plaintiff was arrested on 21 September 1992, and tried on 10 December 1992 at the Military Court in Nablus, Case No. 7713/92. He was sentenced to seven months of actual prison time, which he served at Qezi'ot prison. He was also sentenced to pay a NIS 1,500 fine or serve sixty days in prison in lieu thereof.

5. The last date for the payment of the fine was 21 April 1993, namely the same day on which the Plaintiff was due to be released (hereinafter: the Date of Release).

A Defendant's Particulars Query is attached to this complaint as an integral part hereof and marked Exhibit A.

6. The Plaintiff's family paid the fine on 19 March 1993 and delivered the payment slip (hereinafter: the Receipt) to Att. Manal Al-Masri, who represented the Plaintiff at the Nablus Military Court.

7. Immediately after delivery of the Receipt to Att. Al-Masri, she forwarded a photocopy thereof to the clerk's office at the Nablus Military Court. Furthermore, Att. Al-Masri delivered the original receipt to the Registration Department at the Prison in person, while on a visit there some time before the Date of Release.

8. The Plaintiff was not released on the scheduled date of release. The Plaintiff was released only on 11 May 1993, after being unlawfully held in the Prison for twenty days.

9. The Plaintiff shall claim that his detention in the Prison after 21 April 1993 constitutes false imprisonment, within the meaning of this term in Article 26 of Pequddat ha-Neziqin (Nosah Hadash) [the Torts Ordinance (New Version)], and that Defendants 1 and 2 are directly liable, either by way of an act or an omission, for denying the Plaintiff his freedom, utterly and unlawfully, for twenty days.

10. Alternatively, the Plaintiff shall claim that Defendants 1 and 2 were negligent towards him, and that their negligence is expressed, *inter alia*, in the following acts and omissions:

a. Defendant 1 failed to verify that the prison logs and/or registers and/or the Plaintiff's file would reflect that the receipt for the payment of the fine was presented to the Registration Department at the Prison prior to the Date of Release, as provided in Article 7 above.

- b. Defendant 1 failed to review the Plaintiff's file and inquire into the expiration of the Plaintiff's period of incarceration and into the timely payment of the fine.
 - c. Defendant 1 failed to ensure that the Plaintiff was duly released immediately upon being entitled thereto.
 - d. Defendant 2 failed to arrange for the orderly management and/or functioning of the Prison, including the release of prisoners upon expiration of their period of incarceration.
 - e. Defendant 2 employed persons who were unskilled and/or unprofessional and/or lacked sufficient training and/or experience, thus causing the Plaintiff to spend another 20 days in prison unnecessarily.
 - f. Defendant 2 failed to supervise and/or failed to properly supervise the acts and omissions of its employees.
11. The Plaintiff shall further claim that Defendant 2 is liable for the acts and/or omissions of Defendant 1 and for the acts and/or omissions of the prison employees, in their capacity as agents and/or employees thereof.
12. Alternatively to the alternative, the Plaintiff shall claim that the Defendants breached the duty imposed on them in Article 23(a) of Taqqanot ha-Shipput ha-Zeva'i (Bate Sohar Zeva'iyim) [the Court-Martial Regulations (Military Prisons)], 5747-1987, by failing to release the Plaintiff on the last day of his period of incarceration, thus committing the wrong of negligence per se, as specified in Article 63 of the Torts Ordinance (New Version).
13. The Plaintiff shall claim that due to all of the aforesaid, he suffered indescribable mental injury, by being forced to spend a period of twenty days in his cell without any justification, a period in which he was supposed to be free, to work and to carry on a normal social life.
14. The Plaintiff shall further claim that as a result of his unlawful incarceration, he lost an opportunity to work for "Shirkat Al-Quds lil-Mustahdarat al-Tibbiyya" (the Al-Quds Medical Preparations Company at Al Bireh), as an assistant pharmacist, since the said company hired another worker in his place after learning that the Plaintiff was not released from prison on 21 April 1993.

15. The Plaintiff shall further claim that during his unlawful and unnecessary incarceration he suffered a state of depression, knowing that he was being oppressed through no fault of his own.
16. The Plaintiff shall claim that he is entitled to compensation for distress, as described above, in the global sum of NIS 70,000, and to a full refund of the fine paid by him in the sum of NIS 1,500, in addition to differences of indexation and interest from the Date of Release until the date of filing of the complaint, in the total sum of NIS 2,037.
17. The Honorable Court has the territorial and the subject matter jurisdiction to hear the complaint.

The Honorable Court is therefore moved to summon the Defendants and to charge them with payment of the Plaintiff's damages as specified in the complaint, in addition to differences of indexation and interest as set out in the law from the Date of Release and/or from the date of filing of the complaint, in addition to trial expenses.

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Hala Huri, Att.

Counsel for the Plaintiffs

Jerusalem, today _____ 1995

[Opening date: 23 October 1995]