

31 ta' Lulju, 1997

Imħallef:-

exactly the charges which were being preferred against him. This is the whole purpose of section 360 (2) of the Criminal Code. Since no substantial change was made to the charges by the said correction there was no need for the charges to be served afresh upon the accused.

The Court:-

Having seen the charges preferred against Kenneth McLeod, to wit that on the 12th April, 1994 at about 4.00 p.m. at The Strand, Gzira, he drove car number X-0762: (1) in a negligent; and (2) dangerous manner; and (3) at an excessive speed; and moreover (4) driven the said car under the influence of drugs or alcoholic drinks; also (5) with having driven the said car when not in possession of a police driving licence; and thus (6) not covered by a policy of insurance regarding third party risks; also with having (7) through imprudence, negligence and non-observance of the regulations hit and knocked down to the ground Ronald Farrugia causing him involuntary slight injuries as certified by Dr. Jonathan Joslin M.D.;

Having seen the judgement of the Court of Magistrates (Malta) of the 30th June, 1997, whereby that Court acquitted the said Kenneth McLeod by declaring the proceedings time barred;

Having seen the appeal application of the Attorney General of the 7th July, 1997 whereby the said appellant requested the revocation of the said judgement;

Having seen the record of the case, having noted that respondent failed to appear at the last sitting of the 7th January, 1998 although duly notified; considers:

The facts of the case are quite simple. Respondent was

Xjentement ghamel dikjarazzjoni falza f'talba jew rakkomandazzjoni li ghandha x'taqsam mal-hrug jew tigdid ta' passaport bi ksur ta' l-artikolu 6 tal-Kap. 61 tal-Ligijiet ta' Malta; u

Kiser il-kundizzjonijiet moghtija lilu b'sentenza tal-Qorti tal-Magistrati tad-9 ta' Awissu, 1988 li ma jikkommettix reat iehor fi zmien tliet snin;

U kkundannatu kif segwenti:

“Fuq l-ewwel akkuza tikkundannah ghal multa ta' Lm400;

Fuq it-tieni akkuza tikkundannah ghal tliet xhur prigunerija u l-Qorti a tenur ta' l-artikolu 109 tal-Kap. 9 qiegħda timponi fuq Carmelo Abdilla interdizzjoni generali kif ukoll interdizzjoni milli jservi bhala xhud hlief quddiem il-Qrati tal-Gustizzja u bhala perit f'kull kaz li jkun u dana ghal zmien ta' sitt snin mil-lum;

Fuq it-tielet akkuza tikkundannah ghal tliet xhur prigunerija;

Fuq ir-raba' akkuza tikkundannah ghal multa ta' Lm800”;

Rat ir-rikors ta' appell li bih l-imputat talab li din il-Qorti tirrevoka dik is-sentenza u tilliberah mill-imputazzjonijiet kollha jew alternattivament timmitiga l-piena inflitta lilu b'dik is-sentenza;

Rat l-atti l-ohrajn kollha u tikkunsidra illi:

Omissis;

L-ewwel aggravju ta' l-appellant jikkonsisti filli jirritejni li ma ngiebet ebda prova li huwa kien "akkwista xi vantaġġ jew benefiċċju" li huwa wiehed mir-rekwiziti tar-reat dedott fl-ewwel imputazzjoni. F'dan ir-rigward jiġi rrilevant li dan ir-rekwizit mhuwiex li wiehed ikun realment akkwista xi vantaġġ, iżda hu li d-dikjarazzjoni falza tkun saret bl-iskop li jiġi miksub vantaġġ. Fil-każ odjern, jirriżulta mill-istqarrija ta' l-appellant lill-Pulizija li d-dikjarazzjoni falza bil-ġurament huwa kien ghamilha biex jikseb il-vantaġġ li fuq il-passaport tieghu ma jkollu xejn x'juri li hu kien ġie ddeportat mill-Ingilterra;

Aggravju iehor ta' l-appellant hu fis-sens li kull meta huwa ghamel dikjarazzjoni dwar telf ta' passaport, fil-mument tad-dikjarazzjoni l-passaport partikolari verament kien mitluf. Jirriżulta pero` li fil-każ tad-dikjarazzjoni dwar it-telfien tal-passaport numru 174875 mhux hekk kien. Di fatti, kif ġa` ntqal, l-appellant stqarr lill-Pulizija li dik id-dikjarazzjoni kien ghamilha biex jakkwista passaport ġdid. Fl-istqarrija l-appellant qal testwalment:

"Nixtieq nghid iżda li fil-fatt dan il-passaport ma kienx intilifli";

Omissis;

Din il-Qorti ma jidhrilhiex li ghandha tvarja l-piena inflitta mill-Ewwel Qorti. In vista pero` tal-prova prodotta f'din l-istanza li l-appellant kien qieghed jikkura ruhu ghall-vizzju tat-tehid tad-droga, thalli f'idejn id-Direttur tal-Habs biex jikkonċedi lill-appellant il-leave li jkun mehtieg ghall-kura tieghu;

Ghall-motivi premissi tiehad l-appell u tikkonferma s-sentenza appellata b'dan li t-terminu ta' sitt snin relattiv ghall-

interdizzjoni ta' l-appellant ghandu jibda jiddekorri mil-lum u tordna lir-Registratur jippubblika din il-kundanna għall-interdizzjoni mill-aktar fis fil-Gazzetta tal-Gvern skond il-ligi;

Barra minn hekk billi jidhrilha li dan l-appell huwa fieragh, rat l-artikolu 429 tal-Kodiċi Kriminali u tikkundanna lill-appellant barra milli għall-ispejjeż għall-ħlas ta' ħamsa u ghoxrin lira ammenda, li hija l-massimu preskritt mil-ligi.
