

30th May, 1997

Judge:-

Hon. Victor Caruana Colombo LL.D.

The Police

*versus*

Shafiquzzaman Syed

### Contents of Appeal Application

*It is very clear that the law requires, under pain of nullity, that the application of appeal shows distinctly which are the facts of the case and which are the grounds of appeal. It is also clear that the statement of the facts be brief. In this manner the facts and the grounds are stated separately so that the adversary and the Court may easily follow and understand the submissions made in the application.*

The Court:-

Having seen the judgement of 15 January, 1997 by which the Court of Magistrates (Malta) found the accused Shafiquzzaman Syed guilty of having on 13th February, 1996 and during the months following failed to abide by decree number 126/95 dated 13th February, 1997 by which he was ordered to give maintenance to his wife Marisa Syed and to the minor child Nadir and by application of section 9 of Chapter 152 of the Laws of Malta discharged him subject to the condition that he commits no offence within one month, and imposed on the accused within three months to pay the amounts

of money due to Marisa Syed, including the arrears in accordance with decree number 126/95 of the Honourable Civil Court, Second Hall, and on his failure, sentenced the accused to one month's imprisonment;

Having seen the application by which the accused appealed from the said judgement and demanded that that judgement be declared null or subordinately that he be given the opportunity to show that he had no intention of disobeying any order of the Court, or that that part of the said judgement by which he was ordered to pay Marisa Syed be declared null, and that this Court remands the records of the case to the Court of Magistrates for that Court to hear the evidence with appellant's counsel attending or that this Court itself shall hear the evidence;

Having seen the records of the case and heard the submissions of counsel; considers:

The Attorney General pleaded the nullity of the application of appeal on the ground that the facts of the case are not shown therein according to law;

Section 419 (1) of the Criminal Code states:

"Besides the indications common to judicial acts, the application shall, under pain of nullity, contain:

A brief statement of the facts;

The grounds of appeal;

A demand that the judgement of the Inferior Court be

reversed or varied”;

It is very clear that the law requires, under pain of nullity, that the application of appeal shows distinctly which are the facts of the case and which are the grounds of appeal. It is also clear that the statement of the facts be brief. In this manner the facts and the grounds are stated separately so that the adversary and the Court may easily follow and understand the submissions made in the application;

The present application is made up of an introduction, a section entitled “Grounds of appeal” and a final section entitled “Demand”. It is excessively and unnecessarily verbose. Counsel for the appellant submitted that the facts may be found all along the application. Nevertheless, the facts are to be stated separately and briefly. This is a requirement of the law under pain of nullity. It must be added that the Court is not to be made to glean the facts of the case from among the various contents of the application, which in the present case are extremely copious and replete with information which is absolutely irrelevant to the facts in issue. In his application the appellant grossly violates the rule laid down in section 419 (1) above quoted;

For the above reasons, allows the plea of the Attorney General and declares the application of appellant null and void.

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