



Court of Criminal Appeal

Hon. Justice Giovanni M. Grixti LL.M, LL.D.

Appeal Number: 429/2015

The Police

[Inspector Godwin Scerri]

Vs

Paul Allen Sneddon

Sitting of the 3rd November 2016

The Court,

Having seen the charges brought against Paul Allen Sneddon holder of Maltese identification card no. 83850 (A) before the Court of Magistrates (Malta) as a Court of Criminal Judicature of having:

1. On the 17th of August 2014 at around 9:30pm at Pioneer Rd in St Paul's Bay, without the intent to kill or to put the life of Inspector Maurice Curmi and PS914 Ivan Mifsud in manifest jeopardy caused the mentioned slight bodily harm in breach of *Article 221 of Chapter 9 of the Laws of Malta*.

2. And on having on the same date, time and place assaulted or resisted by violence or active force not amounting to public violence, any person lawfully charged with a public duty when in the execution of the law or of a lawful order issued by a competent authority in breach of *Article 96(a) of Chapter 9 of the Laws of Malta*.

3. And of having willfully committed voluntary spoil, damage or injury to or upon any moveable or immoveable object, of damage to the detriment of the Malta Police Force in breach of *Article 325(1)(b) of Chapter 9 of the Laws of Malta*.

4. And on having on the same date, time and place disobeyed lawful orders of any authority or of any person/s entrusted with a public service, hindered or obstructed such persons in the exercise of their duties, or otherwise unduly interfered with the exercise of such duties in breach of *Article 338(ee) of Chapter 9 of the Laws of Malta*.

5. And on having on the same date, time and place in any manner willfully disturbed the public good order or the public peace in breach of *Article 338(dd) of Chapter 9 of the Laws of Malta*.

6. And of having refused to give, or had given false particulars to a Public Officer whilst exercising their duty in breach of *Article 338(g) of Chapter 9 of the Laws of Malta*;

Having seen the judgment of the Court of Magistrates (Malta) as a Court of Criminal Judicature of the 25th September, 2015 whereby it found the accused guilty of all the charges brought against him and condemned him to eight (8) months imprisonment suspended for a period of two (2) years in terms of article 28A of the Criminal Code;

Having seen the application for appeal presented by the Attorney General in the registry of this Court on the 12th October, 2015 whereby it requested that the said judgement be reformed by while confirming that part wherein the Court found the accused guilty of all charges and condemned him to a term of imprisonment of eight (8) months suspended for two (2) years in terms of article 28A of the Criminal Code, altering that part of the judgement concerning the punishment by including the appropriate fine (multa) as part of the punishment to be imposed in terms of Article 96 (a) of the Criminal Code;

Having seen the updated conduct sheet of the respondent introduced into the records by order of this Court;

Having heard submissions adduced by the Attorney General and by Counsel to respondent;

Having seen the records of the case;

Having considered:

1. That respondent was arraigned under arrest before the Court of Magistrates (Malta) as a Court of Criminal Inquiry on the 19th August 2014 to answer for the charges indicated *supra* relating to events that occurred the previous day in connection with resisting arrest and causing slight bodily harm on two police officers. From the records of the case it transpires that respondent was on his way to seek assistance from the Executive Police on a matter concerning a neighbourly dispute when he came across Police Inspector Maurice Curmi who informed respondent that he was tending to other urgent and pressing matters and could only therefore direct him to the Qawra police station. Respondent was not receptive of that advise and started swearing at the police inspector upon which respondent was

ordered to stop and submit his personal details but had to be physically subdued after ignoring the order to stop and after refusing to give his details. An altercation ensued between respondent and the inspector after which respondent finally gave his details which, however, seemed unlikely to be true and Inspector Curmi called for assistance for respondent to be taken to the police station until his details were verified. Upon arrival of other officers, respondent tried to flee the scene, jumped onto the police vehicle and after being given chase was apprehended and handcuffed. As a result of the altercation, Inspector Curmi sustained some abrasions to his posterior aspect of his neck and PC 914 sustained some abrasions on his forearm and groin;

2. The appeal lodged by the Attorney General is limited to the punishment meted out by the Court of First Instance in that article 96(a) of the Criminal Code provides for that a person guilty of the crime therein stated is subject both to imprisonment and to a fine (multa) and that the first Court was not correct when condemning respondent only to a term of imprisonment suspended as above stated;

3. The first Court, having found guilt against respondent opted to impose the grave punishment of all the crimes with which he was charged, namely article 96(a) of the Criminal Code which reads as follows:

96. Whosoever shall assault or resist by violence or active force not amounting to public violence, any person lawfully charged with a public duty when in the execution of the law or of a lawful order issued by a competent authority, shall, on conviction, be liable –

(a) where the assault or resistance is committed by one or two persons, to imprisonment for a term from six months to two years and to a fine (multa) of not less than four thousand euro (4,000) and not more than ten thousand euro (10,000);

(b) where the assault or resistance is committed by three or more persons, to imprisonment for a term from nine months to three years and to a fine (multa) of not less than five thousand euro (5,000) and not more than fifteen thousand euro (15,000).

4. The Attorney General is therefore correct in his arguments in that the First Court should have also imposed a fine (multa) in addition to the term of imprisonment. In applying the pecuniary aspect of punishment of Article 96, reference must be made to Article 99A which expressly prohibits the application of article 21 of the Criminal Code which allows the Court to apply a lesser penalty than that prescribed by the law. Respondent's claim that this Court should apply a punishment below the minimum prescribed by law due to the fact that the amendments to article 96 thereby prescribing harsher penalties came into force just a few months prior the incident under review is not sustainable at law.

5. This Court however notes the pertinent comments made by the Court of First Instance where it pointed out "*that the Police Officers concerned could perhaps have shown a little more patience and taken the time to explain to the accused that he had to prioritise and could not leave his post to assist him on a matter which did not require immediate intervention and that he would receive the assistance he required at the Police Station.*" Although these remarks can not be interpreted in a manner in which the First Court intended to apply a lesser penalty this Court will apply the minimum pecuniary penalty in order to reflect the preoccupation sounded by the said First Court;

6. This Court therefore upholds the appeal of the Attorney General for the reform of the judgment in the names of The Police vs Paul Allen Sneddon delivered by the Court of Magistrates (Malta) as a Court of Criminal Judicature of the 25 September 2015. Consequently whilst **confirming** that part of the judgement wherein Paul Allen Sneddon was found guilty of the charges proffered against him and that part through which he was condemned to a term of imprisonment of eight (8) months suspended for a period of two (2) years in terms of article 28A of the Criminal Code, alters the judgement by condemning respondent also to a payment of a fine (multa) of four thousand euro

(€4000) which fine (multa) is considered a civil debt in accordance with article 99A(3) of the Criminal Code.