



**Court of Magistrates (Malta)
As a Court of Criminal Judicature**

Magistrate Dr. Donatella M. Frendo Dimech LL.D., Mag. Jur. (Int. Law)

**The Police
(Inspector Josric Mifsud)**

-vs-

Ion sive Ivan Surugiu, holder of Identity Card number 69406A.

Case no: 497/2014

Today the 28th February, 2017

The Court,

Having seen the charges brought against the accused Ion sive Ivan Surugiu who is being charged with having:

1. on the 8th March, 2014, at about 11:00am, in Smart City, Kalkara, without the intent to kill or to put a person's life in manifest jeopardy, he caused harm of grievous nature to the body or health of Maricel Tulburi or any other person, as certified by Dr Jean Paul Camilleri of the Cospicua Health Clinic;
2. on the same date, time, place and circumstances uttered insults or threats not otherwise provided for in the Criminal Code, or being provoked, carried insults beyond the limit warranted by the provocation;

3. on the same date, time, place and circumstances in any matter willfully disturbed the public good order or the public peace;

The Court was requested to issue a protection order as per article 412C of the Criminal Code for Maricel Tulburi, throughout the hearing in the case and even together as part of the sentence the Court deems fit, if the accused was to be found guilty.

The Court was also requested to issue a personal surety for Maricel Tulburi as per articles 383, 384 and 385 of Chapter 9 of the Laws of Malta.

Having seen the Attorney General's consent so that this case be tried summarily and having heard the accused declare that he has no objection that the case be so tried.

Having heard witnesses.

Having seen all the acts and documents exhibited;

Having heard the prosecution and defence counsel make their submissions.

Considers:

Whereas the injured party's testimony, tally's with the version of events given by the accused when first spoken to by PS1122 Rizzo¹ and in his statement to the investigating officer Inspector Robert Said Sarreo.²

Whereas the injured party's version of events clearly exonerates the accused from any voluntary crime against the person. Maricel Tulburi explained that he was hit only after the accused had thrown a pair of pliers which had in turn hit him on the rebound. Tulburi, in fact attributes no blame to the accused.

In view of the foregoing, with respect to the first charge, the court can only find the accused guilty of the lesser and included offence of involuntary bodily harm.

Whereas no evidence was produced to substantiate the second and third charges.

¹ Dok. RSS1

² Dok. RSS

In considering the applicable punishment, the Court took note of the fact that the offence dates to three years ago, during which time no attempt was made by the injured party for the commencement of these proceedings which had been originally filed in May 2014 yet begun to be heard only today. This fact is highly indicative of the lack of interest shown by the injured party in the cause instituted by the Police against his co-worker. The fact that there is no ill-feeling between the injured party and the accused as well as the fact that the accused has a clean criminal record were also considerations which the Court took into account.

For these reasons, the Court whilst not finding the accused guilty of the second and third charges brought against him and thereby acquitting him from the said charges, after having seen article 226(1)(b) of Chapter 9 of the Laws of Malta finds him guilty of involuntarily causing bodily harm of a grievous nature, however in view of the above made considerations and after having seen Article 22 of Chapter 446 of the Laws of Malta, absolutely discharges the offender.

Dr Donatella M. Frendo Dimech LL.D., Mag.Jur. (Int. Law)
Magistrate