

**COURT OF MAGISTRATES (GOZO)**  
**AS A COURT OF CRIMINAL JUDICATURE**

**Magistrate Dr. Joanne Vella Cuschieri B.A., Mag. Jur. (Eur. Law.),**  
**L.L.D.**

**Today, 3rd October, 2017**

**The Police**  
**(Inspector Bernard Charles Spiteri)**

**-vs-**

*William Byron Kearns*, holder of Maltese Identity Card Number  
123788A, aged 53 years, son of William Byron and Norma nee'  
Willgoss, born in Paris, France, on the 1<sup>st</sup> June 1964 and temporarily  
resides at 87, Wardija Street, Qala, Gozo.

**The Court;**

Having seen the charges brought forward against the accused with having on the 23<sup>rd</sup> August 2017, at around 3.30p.m. and during the previous time, whilst he was at 87, Wardija Street, Qala, Gozo and/or in the vicinities;

1. Without the intent to kill or put the life in manifest jeopardy caused slight injuries on the person of Esther Melero De Castro, as certified by Dr. Joseph Galea M.D.

The Court is being kindly requested, where it deems expedient, in order to provide for the safety of *Esther Melero De Castro* or for the keeping of the public peace, in addition to, or in lieu of the punishment applicable to the offence, require the offender to enter into his own recognizance in a sum of money to be fixed by court.

Having heard Esther Melero De Castro giving evidence wherein in short she stated that she had met accused through the internet and after seeing him for few hours in Spain they agreed that she would come for a holiday in Gozo. Same witness stated that when she arrived in Malta she realized she had not gotten any money or credit cards with her and that she had asked her sister to send some money through accused account. Ms. De Castro at first in her testimony described accused like some kind of jealous men locking her in his residence, not letting her do anything and not giving her food. She also mentions an incident wherein she alleges that accused was violent to her and that he hurt her on her neck 'mi prendeva per collo, mi sbatto' sul muro' (fol. 18). Wherein the same witness dismisses the injuries on her knees as being done by the accused but as a result of a fall. Wherein also the witness does not at any time mention in her evidence mention any injuries on her chest.

The Court noticed that further into her evidence alleged victim dismisses most of her own accusations by admitting that accused had taken her out to dinner basically every day and that the night before she phoned the police, accused had even thrown a party in his place wherein food was abundant and this is confirmed by other witnesses heard in these proceedings and by the alleged victim herself. Alleged victim also admitted of suffering of a condition wherein she bruises very easily even though at first she denied such a claim but had to admit after that messages were filed in the acts wherein she states otherwise (fol. 45). The Court could notice such attitude by the alleged victim of first denying a claim and than admitting to it when faced with evidence, which attitude clearly shows the Court that alleged victim is not a credible witness. Also alleged victim stated with the police that she had been locked up in the house by the accused with no food, however in

her evidence she admitted that she could just open the door and leave and that there was food in the fridge (chicken) but that she did not like that food for breakfast and this the day after a party had been thrown at the same house.

Having heard the accused William Byron Kearns give evidence and stating that he had not been violent to the alleged victim and that simply these procedures were a retaliation from behalf of alleged victim due to the fact that he wanted her out of his house after that she had lied about certain basic facts about her and that she had turned up for the holiday without any money. Court also heard the accused explaining the 'alleged' injuries on the alleged victim's chest as being consensual during intimacy between the two. From the police report exhibited in the acts it transpires that it was accused himself who sought help from the police in order to get Esther Melero De Castro out of his house after that he had given her the money her sister had transferred in his account in the presence of Anthony Buttigieg but still refused to leave.

Having seen the medical certificate issued by Dr. Joseph Galea dated the 23<sup>rd</sup> of August, 2017 wherein only bruises on the chest and on the legs are mentioned, no signs of injuries on the neck where certified by Dr. Joseph Galea on the alleged victim, neck injuries which were the only injuries alleged by Esther Melero de Castro in her evidence;

Having heard the evidence given by Anthony Buttigieg and Alexander Gruber who both corroborate parts of accused evidence. Anthony Buttigieg confirms that accused had sought his help and the police's help to try and get the alleged victim to leave from accused residence and he confirms that he had seen no violence whatsoever. Witness Alexander Gruber confirms that he had seen accused and alleged victim together the day before at accused house and the previous Monday at the beach and that to him alleged victim appeared very much in love with accused hanging on to him and had noted nothing abnormal in their relationship.

Having seen that both parties resorted for help from the police almost at the same time in accordance with the report exhibited fol. 8 to 10 of the file. Having heard the evidence given by Inspector Bernard Spiteri as to how the case was dealt with by the police as a result of a report first

being lodged by accused and consequently a report being lodged by the alleged victim.

### **Considers**

The Court from all the evidence brought forward has found no evidence of bruises or slight injuries in the neck as alleged by Esther Melero De Castro. The alleged victim did not attribute any other injuries to the accused. The injuries as certified by Dr. Joseph Galea (fol. 10), that is bruises on alleged victim's chest and legs have been amply explained by accused. Alleged victim even admits that accused had nothing to do with the injuries on her legs whilst omits completely any evidence regarding the bruises on her chest and this leads the Court to believe accused version as to how these occurred. Court is convinced that these procedures are the result of alleged victim retaliating against accused after that she was asked to leave his residence and that the accusations of slight injuries have all been made up by Esther Melero De Castro and consequently false.

### **Decision**

In view of all the above considerations and after analyzing the evidence heard throughout, Court finds no hint of evidence leading to the accused causing slight injuries on the person of Esther Melero De Castro and therefore proceeds to acquit accused from the accusation brought against him.

(sgd.) Dr. Joanne Vella Cuschieri  
Magistrate

(sgd.) Maureen Xuereb  
D/Registrar

True copy

D/Registrar