



**Qorti tal-Magistrati (Malta)
Bhala Qorti ta' Gudikatura Kriminali**

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

Illum, 12 ta' Dicembru, 2017

**Il- Pulizija
(Spettur Bernard C. Spiteri)**

-vs-

**Glenn Vella detentur tal-karta tal-identita` numru 434780M; u
Stephanie Micallef, detentrici tal-karta tal-identita` numru 537286M**

Kumpilazzjoni Nru. 877/2009

Il-Qorti,

Rat l-imputazzjonijiet migjuba kontra l-imputati Glenn Vella u Stephanie Micallef u cioè talli:

F'dawn il-Gzejjer, nhar il-25 ta' Awwissu 2009, f'xi hin bejn is-1:30pm u s-2:15 pm minn Triq il-Mensija, San Ġwann, u/jew fil-vicinanzi:

1. ikkomettw serq ta' vettura bil-mutur tal-għamla Toyota Vitz bil-kulur griż numru tar-registrazzjoni *SVN634*, ta' nuċċali tax-xemx tal-għamla Gucci, tnax-il pakkett tal-flixken tal-Coca Cola u hwejjeġ ohra, liema serq huwa

kkwalifikat bil-valur li jaqbeż €2,329.37 u xorta tal-ħaġa misruqa għad-dannu ta' Jonathan Borg.

Rat l-akkużi fil-konfront tal-imputata Stephanie Micallef u cioè talli :

2. Fl-istess data, ħin u ċirkostanzi saqet vettura, bin-numru tar-reġistrazzjoni DBB 939 tal-ġhamla Skoda Favorit mingħajr ma kienet koperta b'liċenzja mahruġa mill-awtorità kompetenti.
3. Fl-istess data, ħin u ċirkostanzi fi bñadi differenti saqet vettura, bin-numru tar-reġistrazzjoni DBB 939 tal-ġhamla Skoda Favorit mingħajr ma kienet koperta bil-polza ta' sigurtà dwar ir-riskju tat-terzi persuni.

Il-Qorti ġiet mitluba sabiex f'każ ta' ħtija tiskwalifika lill-ko-imputata Stephanie Micallef milli jkollha liċenzja tas-sewqan.

4. Il-Qorti hija mitluba sabiex tittratta mal-ko-imputat Glenn Vella bħala reċidiv, ai termini tal-artikoli 49, 50 u 289 (1) tal-Kap 9 tal-Liġijiet ta' Malta u dawn wara li saru definittivi u għaldaqstant ma jistgħux jinbidlu.

Semgħet ix-xhieda.

Rat in-nota ta' l-Avukat Generali tat-22 ta' Marzu, 2010,¹ permezz ta' liema bagħat lill-imputati biex jigu gudikati minn din il-Qorti bħala Qorti ta' Gudikatura Kriminali kif mahsub fis-segħenti artikoli:

- (i) Fl-artikoli 261, 267, 279(g), 279(b), 280(1) u 281(a) tal-Kapitolu 9 tal-Liġijiet ta' Malta
- (ii) Lil Stephanie Micallef waħidha fl-artikoli 15(1)(a), 15(3) tal-Kapitolu 65 tal-Liġijiet ta' Malta u fl-artikoli 3(1)(1A)(2)(a)(2A) tal-Kapitolu 104 tal-Liġijiet ta' Malta; u
- (iii) Fl-artikoli 17, 31, 49, 50, 289(1) u 533 tal-Kapitolu 9 tal-Liġijiet ta' Malta.

Rat li l-imputati ma kellhomx oggezzjoni li l-kaz jigi trattat bi procedura sommarja.

Rat l-atti u d-dokumenti kollha.

Semgħet it-trattazzjoni finali.

Ikkunsidrat:

¹ Fol.0 tergo

Illi qabel xejn irid jinghad illi ghalkemm din il-kawza tirtigwarda reati li allegatament sehew f'Awissu 2009, l-istess kawza giet mismugha minn din il-Qorti, kif diversament presjeduta, u l-ewwel udjenza quddiem din il-Qorti, kif preseduta, giet mizmuma fl-24 ta' Jannar, 2017.

Illi fit-tieni lok ghandu jigi sottolinejat li din il-Qorti qed tiskarta ghal kollox l-stqarrijiet tal-imputati u dan fid-dawl ta' guriprudenza ricenti minkejja li ma saret ebda ammissjoni minnhom. Kif irriteriet l-Qorti tal-Appell Kriminali (Sede Inferjuri) fil-kaz **II-Pulizija vs Joseph Camilleri**²:

"Illi id-dritt ghal smiegh xieraq kif sancit fl-artikolu 6(1) u l-artikolu 6(3)(c) tal-Konvenzjoni Ewropeja gie estiz mill-guriprudenza ewropeja mhux biss ghal jedd li ghalih hija intitolata l-persuna akkuzata matul il-proceduri penali fil-qorti izda ukoll ghal hekk imsejjah *pre-trial stage* u cioe' ghall-istadju meta persuna tkun giet arrestata u ser tigi interrogata. Dina l-fehma ghalhekk tfisser illi l-artikolu 6(3)(c) li jipprovdli dwar l-assistenza legali ghandu isib applikazzjoni anke fl-istadju ta' l-interrogazzjoni tal-persuna suspettata.....

Issir riferenza ukoll ghal dak dikjarat mill-Qorti Kriminali³:

".....din il-Qorti ma tistax tinjora principju ormai stabbilit mill-Qorti Ewropeja dwar id-Drittijiet tal-Bniedem illi id-dritt ghal smiegh xieraq kif sancit fl-artikolu 6(1) u l-artikolu 6(3)(c) tal-Konvenzjoni Ewropeja ghandu japplika mhux biss tul l-*iter* tal-proceduri penali fil-qorti, izda fuq kollox ghandu isib applikazzjoni u ghalhekk jigi estiz ghal hekk imsejjah *pre-trial stage* u cioe' ghall-istadju meta persuna tkun giet arrestata u ser tigi interrogata. Dana ghalix huwa principju stabbilit fis-sistema penali taghna illi persuna ghandha titqies li hija innocenti sakemm ma tigix misjuba hatja minn qorti gudizzjarja. Kwindi hija ghandha dritt illi ma tinkriminax ruhha bl-ebda mod u dana sa mill-istadju inizjali ta' l-interrogazzjoni. Sabiex dana id-dritt jigi salvagwardjat ghalhekk kull persuna ghandha d-dritt li tikseb l-assistenza legali u dana sabiex tkun fl-ahjar pozizzjoni illi thejji id-difiza taghha. Dana huwa vitali billi fis-sistema penali taghna fejn il-konfessjoni tal-persuna akkuzata hija prova ewlenija fil-process gudizzjarju istitwit kontra taghha.

Il-Qorti Kostituzzjonali, madanakollu kienet recentement ziedet linji gwida ohra ghal gudikant li ikollu f'idejh id-decizjoni dwar jekk ghandux jiehu kont ta' stqarrija tal-interrogat bhala prova in atti sabiex jasal ghal gudizzju tieghu. Gie deciz illi fuq kollox ghandu jittiehed kont tal-fattispecje ta' kull kaz fost ohrajn il-vulnerabilita tal-persuna li tkun qed tigi interrogata (fosthom l-eta, il-precedenti penali) l-jedd li l-persuna interrogata kellha biex tibqa' siekta u ma twegibx ghal dawk il-mistoqsijiet li jistghu jinkriminawh, l-inattivita da parti ta' l-akkuzat milli jipprova jattakka l-validita ta' l-istqarrija tieghu mill-bidunett tal-proceduri, l-provi l-ohra li hemm fl-atti, fost ohrajn. Dan il-hsieb izda gie mibdul mill-Qorti Kostituzzjonali f'sentenza recenti fl-ismijiet **Daniel Alexander Holmes vs Avukat Generali et** deciza fit-03 ta' Mejju 2016 fejn inghad hekk:

Fic-cirkostanzi din il-Qorti hi tal-fehma li ma jkunx ghaqli li tinsisti fuq l-interpretazzjoni taghha, ghalkemm itteni li ghadha tal-fehma illi hija interpretazzjoni sostenibbli u ta' buon sens.

U ghalhekk wasslet ghad-decizjoni illi fid-dawl tal-guriprudenza recenti koncernanti s-sitwazzjoni legali f'Malta qabel l-emendi li dahllu fis-sehh fl-10 ta' Frar 2010:

² Seduta tal-25 ta' Frar 2016, Appell numru 405/2014. Per Onor Imhalled Dr Edwina Grima.

³ Decizjoni fuq Eccezzjonijiet Preliminari. Att t'Akkuza 17/2014 fl-ismijiet Ir-Repubbika ta' Malta vs Ramon Fenech. 02.06.2016

“.... il-Qorti ssib li kien hemm ksur tal-Artikolu 6(1) tal-Konvenzjoni abbinat mal-Artikolu 6(3)(c) tal-istess Konvenzjoni fis-sens li ma nghatatx l-assistenza legali qabel jew waqt l-interrogazzjoni tal-appellant mill-pulizija.”

Issa xi ighidu dawn id-decizjoni recenti⁴ moghtija mill- Qorti Ewropeja Dwar id-Drittijiet tal-Bniedem?

Illi f'decizjoni recenti⁵ moghtija mill- Qorti Ewropeja Dwar id-Drittijiet tal-Bniedem gew affermati il-principji generali li ghandhom jigu sewgiet mill-qrati meta inghad:

“Early access to a lawyer is one of the procedural safeguards to which the Court will have particular regard when examining whether a procedure has extinguished the very essence of the privilege against self-incrimination. These principles are particularly called for in the case of serious charges, for it is in the face of the heaviest penalties that respect for the right to a fair trial is to be ensured to the highest possible degree by democratic societies.

The Court reiterates that in order for the right to a fair trial to remain sufficiently “practical and effective” Article 6 § 1 requires that, as a rule, access to a lawyer should be provided as from the first interrogation of a suspect by the police, unless it is demonstrated in the light of the particular circumstances of each case that there are compelling reasons to restrict this right. Even where compelling reasons may exceptionally justify denial of access to a lawyer, such restriction – whatever its justification – must not unduly prejudice the rights of the accused under Article 6. The rights of the defence will in principle be irretrievably prejudiced when incriminating statements made during police interrogation without access to a lawyer are used for a conviction. Denying the applicant access to a lawyer because this was provided for on a systematic basis by the relevant legal provisions already falls short of the requirements of Article 6.”

Il-Qorti iddecidiet illi l-fatt wahdu illi l-ligi domestika ma kenitx tipprevedi d-dritt ghall-assistenza legali meta l-persuna suspettata kienet tinsab fil-kustodja tal-pulizija hija bizzejjed sabiex ikun hemm vjolazzjoni ta' l-artikolu 6:

“60. The Court notes that it has found a number of violations of the provisions at issue, in different jurisdictions, arising from the fact that an applicant did not have legal assistance while in police custody because it was not possible under the law then in force (see, for example, *Salduz*, cited above, § 56; *Navone and Others v. Monaco*, 24 October 2013; *Brusco v. France*, October 2010; and *Stojkovic v. France and Belgium*, 27 October 2011). A systemic restriction of this kind, based on the relevant statutory provisions, was sufficient in itself for the Court to find a violation of Article 6 (see, for example, *Dayanan v. Turkey*, no. [7377/03](#) §§ 31-33, 13 October 2009; *Yeşilkaya v. Turkey*, no. [59780/00](#), 8 December 2009; and *Fazli Kaya v. Turkey*, no. [24820/05](#), 17 September 2013).

61. In respect of the present case, the Court observes that no reliance can be placed on the assertion that the applicant had been reminded of his right to remain silent (see *Salduz*, cited above, § 59); indeed, it is not disputed that the applicant did not waive the right to be assisted by a lawyer at that stage of the proceedings, a right which was not available in domestic law. In this connection, the Court notes that the Government have not contested that there existed a general

⁴ Mario Borg vs Malta 37537/13 12/01/2016

⁵ Mario Borg vs Malta 37537/13 12/01/2016

ban in the domestic system on all accused persons seeking the assistance of a lawyer at the pre-trial stage (in the Maltese context, the stage before arraignment).

62. It follows that, also in the present case, the applicant was denied the right to legal assistance at the pre-trial stage as a result of a systemic restriction applicable to all accused persons. This already falls short of the requirements of Article 6 namely that the right to assistance of a lawyer at the initial stages of police interrogation may only be subject to restrictions if there are compelling reasons (see *Salduz*, cited above, §§ 52, 55 and 56).

63. There has accordingly been a violation of Article 6 § 3 (c) taken in conjunction with Article 6 § 1 of the Convention.”

Illi gie deciz illi l-qrati ma kellhomx jaghtu interpretazzjoni stretta tad-decizjoni *Salduz vs Turkey* kif sehh fil-kaz ta' Charles Steven Muscat fost ohrajn. L-Imhallef Pinto De Albuquerque⁶ ighid hekk fl-opinjoni tieghu:

“the interpretation of *Salduz* by the Constitutional Court of Malta is in breach of the “constitutional instrument of European public order” and its “peremptory character”. Be that as it may, in the light of the repetitive findings of violations of Article 6 § 3 (c) of the Convention by this Court, the Maltese Constitutional Court should correct its trajectory and return to its initial Convention-friendly interpretation of *Salduz*.”

Imbaghad fil-kawza Aleksandr Vladimirovich Smirnov vs Ukraine (13.06.2014) gie deciz: –

“The Court reiterates the principles developed in its case-law, according to which the right of everyone charged with a criminal offence to be effectively defended by a lawyer, assigned officially if need be, although not absolute, is one of the fundamental features of the notion of a fair trial. As a rule, access to a lawyer should be provided from the first time a suspect is questioned by the police, unless it can be demonstrated in the light of the particular circumstances of each case that there were compelling reasons to restrict this right (see *Salduz v. Turkey* [GC], no. [36391/02](#), § 55, 27 November 2008). The right to mount a defence will in principle be irretrievably prejudiced when incriminating statements made during police questioning without access to a lawyer are used for a conviction (ibid.). While a defendant in criminal proceedings may, under various circumstances, waive his right to legal representation, such a waiver may not run counter to any important public interest, must be unequivocally established, and must be attended by minimum safeguards commensurate with the waiver’s importance.”

Maghdud dan allura jidher illi r-regola hi li l-Artikolu 6(1) abbinat ma'l-artikolu 6(3)(c) jitlob li jkun hemm dritt ta' avukat fl-istadju tal-investigazzjoni tal-pulizija, sakemm ma jigix ippruvat li hemm ragunijiet impellenti ghaliex dan id-dritt ghandu jigi ristrett. Illi allura meta l-ligi domestika teskludi dan il-jedd u dan b'mod sistematiku billi ma ikunx hemm disposizzjoni *ad hoc* li taghti dan il-jedd lil persuna arrestata, ikun hemm il-periklu li isehh lezjoni tad-dritt tal-persuna akkuzata ghal smiegh xieraq anke f'dawk il-kazijiet estremi fejn ma ikun hemm l-ebda dikjarazzjoni inkriminanti f'dawn l-istqarrijiet. Illi fil-kaz deciz quddiem il-Qorti Ewropeja dwar id-Drittijiet tal-Bniedem fl-ismijiet Navone vs Monaco, nstab li kien hemm lezjoni billi l-akkuzat ma kellux jedd ghall-assistenza ta'l-avukat matul l-interrogazzjoni similmont billi l-ligi tal-pajjiz ma kenitx tippermettieha. (ara ukoll *Yesilkaya vs Turkey* – 59780/00 08/12/2009, *Fazli Kaya vs Turkey* – 24820/05 17/09/2015).

⁶ Vide partly concurring and partly dissenting opinion of Judge Pinto De Albuquerque fid-decizjoni *Mario Borg vs Malta*

Dan il-jedd gie anke estiz fil-kaz fejn l-akkuzat kien gie moghti il-jeddijiet kollha vigenti skont il-ligi ta' pajjizu inkluż allura il-jedd tieghu ghas-silenzju u fil-fatt huwa kien ezercita dan il-jedd u ma wiegeb ghall-ebda mistoqsija lilu maghmula. Il-Qorti xortwahda sabet li kien hemm vjolazzjoni ta' l-artikolu 6(3)⁷ u dan ghaliex ma kienx ikkonsulta ma avukat biex ifissirlu il-jeddijiet tieghu skont il-ligi dwar id-dritt tieghu ghas-silenzju u id-dritt li ma jinkriminax ruhu b'dan ghalhekk illi l-Qorti implikat illi t-twissija moghtija mill-ufficjali investigattiv ma hijjex bizzejjed.

“31. The Court is of the view that the fairness of criminal proceedings under Article 6 of the Convention requires that, as a rule, a suspect should be granted access to legal assistance from the moment he is taken into police custody or pre-trial detention.

32. In accordance with the generally recognised international norms, which the Court accepts and which form the framework for its case-law, an accused person is entitled, as soon as he or she is taken into custody, to be assisted by a lawyer, and not only while being questioned (for the relevant international legal materials see *Salduz*, cited above, §§ 37-44). Indeed, the fairness of proceedings requires that an accused be able to obtain the whole range of services specifically associated with legal assistance. In this regard, counsel has to be able to secure without restriction the fundamental aspects of that person's defence: discussion of the case, organisation of the defence, collection of evidence favourable to the accused, preparation for questioning, support of an accused in distress and checking of the conditions of detention.

33. In the present case it is not disputed that the applicant did not have legal assistance while in police custody because it was not possible under the law then in force (see *Salduz*, cited above, §§ 27 and 28). A systematic restriction of this kind, on the basis of the relevant statutory provisions, is sufficient in itself for a violation of Article 6 to be found, notwithstanding the fact that the applicant remained silent when questioned in police custody.” (sottolinjar tal-Qorti)

Fil-fatt fid-decizjoni Brusco vs Franza⁸ gie deciz:

“La Cour constate également qu'il ne ressort ni du dossier ni des procès-verbaux des dépositions que le requérant ait été informé au début de son interrogatoire du droit de se taire, de ne pas répondre aux questions posées, ou encore de ne répondre qu'aux questions qu'il souhaitait. Elle relève en outre que le requérant n'a pu être assisté d'un avocat que vingt heures après le début de la garde à vue, délai prévu à l'article 63-4 du code de procédure pénale (paragraphe 28 ci-dessus). L'avocat n'a donc été en mesure ni de l'informer sur son droit à garder le silence et de ne pas s'auto-incriminer avant son premier interrogatoire ni de l'assister lors de cette déposition et lors de celles qui suivirent, comme l'exige l'article 6 de la Convention.”

Illi allura hija fis-setgha ta' din il-Qorti u dan qabel ma jigi determinat il-process gudizzjarju kontra l-appellanti illi twarrab dik l-evidenza illi tmur kontra il-garanziji moghtija kemm fil-Kostituzzjoni kif ukoll il-

⁷ Dayanan vs Turkey – 7377/03 deciza 13/10/2009

⁸ 1466/07 – 14/10/2010 The Court also notes that it does not follow either the file or the minutes of evidence that the applicant had been informed at the beginning of his examination of the right to remain silent, not to respond to questions, or to not answer the questions he wanted. It further notes that the applicant had been assisted by a lawyer twenty hours after the start of the custody period provided for in Article 63-4 of the Code of Criminal Procedure (see paragraph 28 above). The lawyer was therefore unable either to provide information on his right to remain silent and not to incriminate before his first interrogation or assist during the deposition and during those which followed, as required by Article 6 of the Convention.

Konvenzjoni għal harsien tal-jedd għal smiegh xieraq tal-persuna akkuzata. Fil-fatt dan il-jedd gie indikat fid-decizjoni tal-Qorti Ewropeja fil-kaz Dimech vs Malta⁹ fejn f'dak il-kaz għalkemm il-Qorti ma setatx tasal biex tistabilixxi jekk kienx sehħ lezjoni ta' l-artikolu 6 tal-Konvenzjoni billi l-proceduri penali kienu għadhom ma intemmux, madanakollu saħħqet:

“.... it cannot be entirely excluded that the courts of criminal jurisdiction, before which the case is heard, hear the case in the same circumstances that would have existed had the right to legal-assistance during pre-trial stage not been disregarded, namely by expunging from the records the relevant statements. The Court notes that, if, because of the limitations of the applicable criminal procedural law, it is not possible given the stage reached in the pending proceedings, to expunge from the records the relevant statements (whether at the request of the applicant or by the courts of criminal jurisdiction of their own motion), it cannot be excluded that the legislature take action to ensure that a procedure is made available at the earliest opportunity for this purpose.”

Illi l-Ispettur **Bernard Spiteri** xehed kif certu Jonathan Borg, id-derubat, kien ipparkja l-vettura tieghu SVN634 quddiem il-hanut tieghu liema vettura thalliet miftuha bic-cwieviet fiha. Borg kien gie mgharraf li zewg persuni waqqfu fit-triq xi hin qabel u t-tfajla li kienet qed isuq harget mill-vettura tagħha resqet lejn il-vettura ta' Borg u regghet daret lura u dahhlet fil-vettura tagħha.¹⁰ Ftit wara hareg ir-ragel li kien mat-tfajla fil-vettura, dahal f'dik ta' Borg, startja u telaq biha. Xhud okulari kien innota in-numru tal-vettura li kienu wasslu biha, Skoda bin-numru DBB939 li kienet registrata fuq John Vella missier l-imputat. Fuq is-seat tal-Skoda kien hemm tarbija fuq is-seat ta' wara.¹¹ John Vella kien qal lill-pulizija li ibnu kien qed jagħmel uzu mill-vettura in kwistjoni. In kontro-ezami kkonferma li l-imputati kienu qalu li hija triqithom.¹² Il-fatti kif deskritti mill-ispettur gew ukoll konfermati minn **WPC245 Christina Delia**.¹³

Illi **Stephen Cachia** in rapprezenatnza tad-Direttorat tal-Licenzji xehed li l-imputata ma kellhiex licenzja tas-sewqan. Xehed ukoll li l-vettura SVN634 kienet registrata fuq certu Victor Attard sa mit-13 ta' Settembru, 2004, u dik bin-numru DBB939 kienet registrata fuq John Vella u kienet ilha hekk registrata mid-9 ta' Lulju, 2009.¹⁴

Illi d-derubat **Jonathan Borg** xehed li hu kien halla l-vettura miftuha bic-cwieviet *gol-ignition*. Spjega kif habib tieghu li jahdem go garage fil-qrib, Charlie, kien staqsieh jekk kienx sellef il-vettura tieghu lil xi hadd xhin ra il-

⁹ 02/07/2015 - 34373/13

¹⁰ Fol.28

¹¹ Fol.29

¹² Fol.32-33

¹³ Fol.40 et seq.

¹⁴ Dok.SC a fol.55

vettura tinstaq. Hu jghid li ma ra xejn peress li pparkjat fuq in-naha tal-hanut tieghu faccata ta' fejn ipparkja l-vettura, kien hemm van.¹⁵ Dan Charlie kien gieh is-suspett wara li ra ragel li qabel ma dahal fil-vettura tal-imputat kien libes *hood* meta kien Awissu. Borg jikkonferma li kien jaf lill-imputat ghax kien jarah ta' spiss ghaddej minn quddiem il-hanut tieghu u l-imputati kienu klijenti tieghu.¹⁶ Jghid li l-vettura kien xtraha b'LM4,300 madwar 5 snin qabel. Fiha kien hemm glekk u qalziet li kien xtrahom b'€400 dakinhar stess u nuccali li jiswa LM110. Kien hemm ukoll *remotes* tal-garage li gew jiswewh €85 u *hands free set*. Il-vettura kienet registrata fuq il-kunjatu tieghu minhabba ragunijiet ta' assikurazzjoni.¹⁷

Illi **Charles Casha** xehed kif kien ra ragel u mara go vettura ipparkjata fil-kantuniera tat-triq. Haseb li kienu qed jistennew xi hadd hierieg mis-*sub post office*. Mar jixtri hobza mill-hanut vicin u l-vettura kienet ghada hemm. F'hin minnhom ra persuna tilbes gakketta bil-hood go rasu li beda mixi fuq il-bankina opposta u rikeb fil-vettura tal-habib tieghu minn fejn kien ghadu kemm mar jixtri l-hobza. Hu haseb li kienet xi cajta u gharraf b'dan lid-derubat.¹⁸ Jghid li l-vettura li kienet ipparkjata ftit wara telqet minn fuq il-post ukoll. Hu qatt ma kien ra lil din il-persuna pero kien ra n-numru ta' registrazzjoni jispicca 939 u kien gharaf li kienet Skoda Favorit.¹⁹ Ix-xhud itemm ix-xhieda tieghu billi jghid li ma kienx ra wicc dawn il-persuni u ma gharaf ebda fattizji partikolari ghajr li r-ragel kien "*fieh tifel*".²⁰

Illi ghalkemm kemm l-Ispettur kif ukoll WPC245 Delia jikkonfermaw li missier l-imputat kien infurmahom li l-vettura kienet qed tintuza minn ibnu, il-prosekuzzjoni kienet fid-dmir li ggib l-aqwa prova u mhux tissostiwixxi dan l-obbligu billi tipproduci provi li jikkostitwixxu biss *hearsay* u ghalhekk dak li missier l-imputat seta' qal lill-pulizija hija prova inammissibli. Din il-prova kienet essenzjali sabiex titnissel ir-rabta bejn l-imputati, jew xi hadd minnhom, u r-reati addebitati lilhom, tenut kont tal-fatt li ma hemm ebda prova ohra li tissostanzja l-akkuzi addebitati lilhom.

Ghalhekk fid-dawl tas-suespost il-Qorti qed tillibera lill-imputati minn kwalunkwe htija u piena fuq l-akkuzi kollha imputati lilhom.

¹⁵ Fol.59

¹⁶ Fol.60

¹⁷ Fol.62

¹⁸ Fol.79

¹⁹ Fol.81

²⁰ Fol.82

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Magistrat