



FIL-QORTI TAL-MAGISTRATI TA' MALTA

MAGISTRAT DR FRANCESCO DEPASQUALE

Seduta ta' nhar it-Tnejn tnejn u ghoxrin (22) ta' Jannar 2018

Rikors Numru 232/14 FDP

Anthony Micallef
(ID 164646M)

vs

Martin Vella

Il-Qorti:-

Rat ir-rikors promotur ippresentat fil 15 ta' Lulju 2014 fejn ir-rikorrenti talab lill-Qorti

Prevoja dikjarazzjoni ta' din Onorabbli Qorti illi pubblikazzjoni konsistenti f'email mibghut mill-intimat u distribwit lil numru ta' persuni fit-2 ta' Mejju, 2014 huwa libelluz u malafamanti fil-konfront tar-rikorrent billi l-pubblikazzjoni fiha dikjarazzjonijet illi apparti illi huma infondati, huma palezement intenzjonati sabiex ittellfu jew inaqqsu ir-reputazzjoni tar-rikorrent u sabiex tesponih ghar-redikolu jew ghad-disprezz tal-pubbliku, thallas lir-rikorrent in linea ta danni dik is-somma li tigi likwidata minn dina l- Onorabbli Qorti a tenur tal-Artikolu 28 tal-Att dwar Istampja, Kapitolu 248 tal Ligijiet ta' Malta.

Rat ir-risposta ta' Martin Vella ippresentata fit-13 ta' Ottubru 2014 fejn laqa' ghal dak miltub mir-rikorrenti billi qajjem is-segwenti eccezzjonijet:

- 1. Illi fl-ewwel lok l-emails li qed jilmenta minnhom ir-rikorrent Anthony Micallef ma humiex malafamanti jew b'xi mod inaqqsu jew ittellfu ir-reputazzjoni tieghu kif ser ikun ippruvat waqt it-trattazzjoni tal-kawza;*
- 2. Illi kif ser jirrizulta waqt it-trattazzjoni tal-kawza ir-rikorrent innifsu kien palezement idejjaq lill- esponent biex bi prepotenza jattendi u jkun kelliem ewlieni f'attivita organizzata mill-esponent ghan-nom tas-socjeta li jirraprezenta bla ma kien invitat li jaghmel dan u li sahsitra l-istess rikorrent kien sostna li kien ser jaghmel il-hsara lill esponent;*

3. *Illi il-frazi 'persona non grata' ma hijiex libelluza u dan stante li tfisser biss li tali persuna ma hijiex accettata f'post jew sitwazzjoni minn persuna jew persuni ohra'.*
4. *Illi tali decizjoni li ir-rikorrent giet dikjarat persona non grata ma hadhiex l-esponent imma mill kumitat organizzattiv ta' l-event in kwistjoni.*
5. *Salv eccezzjonijiet ulterjuri*

Semghet ix-xhieda tar-rikorrent **Anthony Micallef** moghtija l-20 ta' Ottubru 2014 u d-29 ta' Jannar 2015 u rat id-dokumentazzjoni minnu esebita.

Rat illi fit 2 ta' Marzu 2015 ir-rikorrent iddikjara illi ma kellux aktar provi x'jipresenta.

Semghet il-kontro ezami tar-rikorrenti illi saret fis 27 ta' April 2015, fl-14 ta' Marzu 2016 u fis 7 ta' Novembru 2016 flimkien mad-dokumentazzjoni minnu esebuta.

Semghet ix-xhieda ta' l-intimat **Martin Vella** moghtija fis 26 ta' Jannar 2017 u rat id-dokumentazzjoni minnu esebita.

Rat l-affidavit ulterjuri ta' Martin Vella ippresentat fis 27 ta' Marzu 2017 u rat id-dokumentazzjoni minnu esebita.

Semghet ix-xhieda ta' **Margaret Brincat**, prodott mill-intimat u moghtija in ezami u kontro ezami fis 27 ta' Marzu 2017.

Rat illi fit 12 ta' Ottubru 2017 l-intimat iddikjara illi ma kienx hemm aktar provi x'jipresenta.

Semghet it-trattazzjoni ta' l-abbli difensuri taz-zewgt partijiet moghtija fl-14 ta' Dicembru 2017, wara liema data il-kawza giet differita ghas-sentenza.

Ikkunsidrat

Jirrizulta, mill-provi ppresentati quddiem dina l-Qorti, ir-rikorrent Anthony Micallef, ghandu business privat tieghu bl-isem ta' Office Group Limited, illi huma agenti ta' varji apparati mehtiega ghall-ufficini, fosthom printers tad-ditta Konica Minolta.

Jirrizulta wkoll illi r-rikorrent kien ukoll il-President tal-Maltese Libyan Chamber of Commerce illi ghandha l-ufficji taghha gewwa Hal-Balzan.

Jirrizulta illi l-intimat Martin Vella jahdem fil-qasam tal-publishing u kien l-EDITOR ta' magazine bl-isem ta' Property & Life, illi huwa kien propratarju tieghu, kif ukoll kien l-EDITOR tal-magazine Economic Update, illi kien propjeta' tas-socjeta Network Publications illi fih l-intimat kien impjegat.

Jirrizulta wkoll illi n-Network Publications u Economic Update kienu wkoll tqabdu mill-Ambaxxjata Tunesina sabiex jorganizzaw il 'Malta-Tunisia-Libya B2B Networking Forum 2014' illi inzamm gewwa Smart City fit 8 ta' Mejju 2014.

Jirrizulta illi r-rikorrent, bhala President tal-Maltese-Libyan Chamber of Commerce, qabel ma gie involut l-intimat fl-organizzazzjoni tal-konferenza fuq imsemmija, kien iddiskuta l-possibilita' illi tigi organizzata tali attivita mal-Ambaxxatrici tat-Tunesija u di fatti l-istess rikorrent kellu jindirizza l-konferenza fil-ftuh ufficjali taghha. (fol 48)

Jirrizulta, madanakollu, illi hekk kif l-intimat assuma r-reponsabbilta' tal-organizzazzjoni tal-Konferenza, il-programm tal-attivitá' illi kien gie redatt mill-Ambaxxata gie mibdul u ir-rikorrent ma' baqax aktar indikat bhala kelliem tal-konferenza.

Jirrizulta illi dana wassal ghal skambju ta' korrisspondenza bejn il-partijiet illi fih terzi persuni kienu involuti wkoll illi huwa l-meritu tal-kawza fl-ismijiet 'Anthony Micallef vs Martin Vella', Rikors Nru 157/14 illi qed jigi deciz illum stess kontestwalment mal-kawza odjerna.

Jirrizulta illi fit 2 ta' Mejju 2014, wara illi l-Ambaxxatrici Tunesina baghtet stedina ufficjali lir-rikorrent sabiex jattenti, l-intimat baghat email lill-istess Ambaxxatrici b'kopja tac-Charge D'Affaire taghha u, f'email ta' tlett faccati, insista dwar l-oggezzjoni tieghu ghall-presenza tar-rikorrent fil-konferenza illi kien qed jorganizza hu u qal dan li gej: (fol 2)

Dear Ambassador,

We fully understand your position and why you sent the invitation, however, our position remains the same in the light of threats made against us by the said President of the LMCC.

The LMCC have registered members from the Libyan-Libyan-Maltese Chamber of Commerce to the Forum, but the President CANNOT be welcomed and will be barred from entering by security. This is an event which is costing us thousands and Mr Micallef is not welcome. He has done events last year and this year and did not want us there, so we respected that and do not want him in any of our events for a number of reasons and We DO NOT want him.

*One the other hand, please inform that President he can send someone instead of him, but that our programme does not allow any of his representatives to speak, as we have made commitments with Hon Ministers and other VIP guests, with Mr Michael Frendo moderating the first session. We do realise that Mr Micallef has been putting a lot of pressure behind the scenes and to you personally, but our we kindly request you to respect our and that also Mr Micallef respects our position mainly that his cannot participate. He can always send a delegate from the LMCC to represent him and this we can confirm. I believe that his vice-President and his Administrative Secretary requested they come and I told them they can, so please relay this message **as we do not wish him to disrupt our event, or come to our event and ride on our back at our own expense.***

On a personal level, please note we have been working extremely hard for this event and we have over 25 exhibitors from Malta and Mr Micallef's presence will not influence the outcome or nor have a bearing, as we have guaranteed maximum success.

This Forum will be a huge success and there will be plenty of chances that we are creating and a plethora of opportunities of partnerships between the Tunisian, Maltese and Libyan community and this is not gong to certainly disappear because there is one person not in it, who is not influential to the event. We have confirmed all speakers, registered over 400 delegates and exhibitors have taken stands and it is too late in the day to make any U-turns.

*We hope you appreciate the fact that we are conceding enough room to accept other members or representatives from the LMCC **but Mr Micallef is not wanted and cannot***

come. I do not have an personal problems with Mr Micallef. Mr Micallef has problems with our company and with interests our company represents, and has tried to defame us and slander us, and is always harming our interests wherever he is. Mr Micallef cannot attend or try to disrupt our event, as we are having to fork out over Euro 25,000 for the organisation and we will hold him fully responsible. I have shown Anhelique just small part of the costs this morning.

Please understand this is not a personal issue and it is our collective decision and we cannot understand why this when you have requested us launch a new Maltese-Tunisian-Libyan Chamber of Commerce, which has attracted the interest of local banks, members of the business community and other traders with North Africa who have expressed their wish to set-up this Chamber and that is why we write to the Chamber of Commerce yesterday.

As regards to Malta Enterprise we have invited them and they have not acknowledged but they are welcome attend. It is up to them to confirm registration, we cannot chase everyone and tell them to come. They are free to attend and I believe they are sending someone as someone called today. We work with ME and have no problems here at all.

The Malta Chamber of Commerce, Enterprise and Industry President Mr David G Curmi who is our great friend and main sponsor as Msv for our Top Entrepreneur Awards, was scheduled to speak, however, he will be abroad and he has informed me he is sending a delegation from ME to attend. We work together with the Chamber, so there are no problems here too and I know why you are worrying about this, when we have MHRA, GRTU, MIM, EIE, OPM, and over 23 constituted bodies attending.

Finally, please note that it is not just up to me to decide on such a gesture of honour, as I do not work alone and our reputation with "The Economic Update", which is Malta's number 1 business publication stands and ranks at the top. We want to play a great role in the future in bringing together the three countries business communities.

What we want to see is positive attitude and gestures from Mr Micallef himself not threats, lies and coercion to try to intimidate us. Please note we had already Mr Micallef email to register but he refused, preferred to make an issue out of nothing, insisting to speak, actions which are arrogant, irresponsible and unethical.

While we hope to have made a step by allowing other members from LMCC to attend, this should also have no influence on whether the Embassy wants to continue to work closely with us, since we are catalysts to make successful are working.

We would have actually appreciated you talk to us directly on this concern, and the programme of the forum has been changed as the one we have sent you in order to allow the important persons that do really have influence in trade and commerce between all three countries, and it is mainly those people who take decisions. You have asked us to organise this and we are doing this with the best that you can get and in our way, as we have full experience and confidence, having organised all the major B2B events in Malta over past five years.

I have just been on the line with Minister Mizzi, and with the list of speakers we have, we cannot accommodate any other due to time restrictions and schedule, as well as the sponsors and exhibitors paying wanted it to be that way too and we have to honour and

respect that, as the success depends also on the people who are supporting paying for booths and exhibiting.

*This is not about me or Mr Micallef, it is about Malta-Tunisia-Libya. **Mr Micallef is a negative, destructive and obstinate person, as we had given him plenty of opportunities and offered him our handshake in past, but he refused and instead wanted only to harm us.** The responsible and positive attitude must come from Mr Micallef and not vice-versa.*

At moment I am very busy with operations and meetings, so if you wish we can discuss this Monday please, as at the moment we have plenty of logistical problems to contend with.

Please note we are fully responsible with programme (we are bringing in key note speakers and paying for their services too) logistics, security, safety, invites, registrations, audio, location, chairs, marquee, carpeting, sound, lunch, cleaning, ambulance stand-by, police, internal and external security, etc.

We are also paying for accommodation of the Libyan Orchestra and offering free coffee and biscuits, including free books to the Tunisian delegates, as well as souvenir pack and free workshops, so I think our goodwill, positive attitude and also responsibility cannot be called to question as we are doing more than requested.

*I suggest brief meeting Monday and I am discussing this during the weekend but if Mr Micallef really wishes to sincerely attend, **then he must make a formal apology in front of you and offer his handshake as gentlemen should do, not continue to do things behind our backs. I think we cannot do more than that.***

Finally, the success of this forum depend and lay with our hard work, guarantee and commitment, and not the presence of an individual.

Thanking you earnest understanding and attention, I remain.

*Yours sincerely
Martin Vella*

Jirrizulta illi, eventwalment, l-Ambaxxatrici Tunesina kitbet lir-rikorrent fil 5 ta' Mejju 2014 fejn gharrfitu bis-segwenti: (fol 2)

Dear Mr. Micallef,

Further to the program I sent to Mr. Vella showing that you'll be a key speaker at the Forum, I received a letter from him, which I found very disrespectful towards you and towards me.

I am sorry to sent you his letter but this man is threatening you and I am afraid of his reaction.

From my side, be sure that I and my colleagues at the Embassy appreciate and respect you as well as the members of the Esteemed Libyan-Maltese Chamber of Commerce and if nobody from the chamber will come to our Forum we'll understand.

But please, come to my reception on the 9th May.

I would like to add this an informative meeting and I hope that next year, your chamber that Forum will be will be the initiator of the 2nd Libyna-Maltese Tunision Forum, which will institute a Business Council related to the three Countries, under your supervision.

Ikkunsidrat

Jirrizulta, mix-xhieda ta' l-intimat, illi bejn l-intimat u ir-rikorrenti kien hemm kwistjonijiet illi kienu nqalghu fil-passat illi eventwalment wasslu ghall-iskambju tal-emails u l-pusizzjoni mehudha kontra r-rikorrenti mill-intimat.

Jirrizulta, di fatti, illi l-intimat jikkontendi illi r-rikorrent, bhala agent tad-ditta Konica Minolta, kien qiegħed jagħmel pressjoni fuq impjegati tieghu sabiex jagħqu bejgh ta' 'printer' kbir lill-intimat, liema bejgh l-intimat ma riedx jikkonkludi ghax il-kundizzjonijiet ma kienux favorevoli ghalih.

Jirrizulta illi l-intimat jikkontendi hekk kif l-intimat irrifjuta illi jixtri il-printer tad-ditta Konica Minolta minghand il-kumpannija tar-rikorrenti, r-rikorrenti kien qal lill haddiema tieghu illi kien ser ipattiha lill-intimat.

Jirrizulta illi sussegwentement, ir-rikorrent kien għamel intervista fuq il-magazine Economic Update, illi tieghu l-intimat kien l-editur, u kien intervistat mill-istess intimat.

Jirrizulta, madanakollu, illi sussegwentement, wara il-harga tal-magazine Economic Update, l-intimat jikkontendi illi r-rikorrent beda jirrifjuta illi jhallas l-€1,200 illi kellhom jithallsu għall-intervista u riklami illi deħru fil-magazine, taht il-pretest illi ma kien kuntent bil-kontenut tal-intervista illi kien għamel l-intimat.

Jirrizulta, finalment, illi l-intimat jikkontendi illi dana in-nuqqas ta' hlas kien attwalment it-tpattija li r-rikorrent ried jagħmel lill-intimat talli l-intimat ma xtarax l-printer minghandu u, bhala rizultat, sid il-magazine Economic Update, ossija John Formosa ta' Network Publications Ltd, kien irrabjat hafna mar-rikorrent u kienet din ir-raguni għaliex Formosa insista ma' l-intimat illi r-rikorrent ma jippartecipa bl-ebda mod fil-konferenza illi kienu qed jorganizzaw għall-Ambaxxata Tunesina.

Ikkunsidrat

Jirrizulta illi r-rikorrent, da parte tieghu, jikkontendi illi l-kwistjoni illi kien hemm bejnu u bejn l-intimat kienet tirrigwarda l-intervista illi kien għamillu l-intimat fuq il-harga ta' Ottubru 2013 fuq il-magazine Economic Update, liema intervista, skond ir-rikorrent, kienet mimlija zbalji, illi għalihom l-intimat ma riedx jammetti.

Jirrizulta wkoll, skond ir-rikorrent, illi wara illi huwa rrifjuta illi jhallas, l-intimat beda jattakka lir-rikorrent u saħansitra, fil 31 ta' Jannar 2014, kiteb email ta' erbgħa faccata shah lill-principali tieghu tal-Konica Minolta gewwa l-Gappun u f'pajjizi ohra, sabiex jattakka lir-rikorrent ta' *"unbecoming and unprofessional behaviour by your representative in Malta, Mr Anthony Micallef of Office Group Ltd"* (fol 62 sa 65 tal-Avviz Nru 157/14).

Jirrizulta illi r-rikorrent jishaq illi, a differenza ta' dak illi qiegħed jittenta jghid l-intimat, meta jwahhal f'John Formosa, sid il-kumpannija Network Publications Ltd, għad-decizjoni illi jiddikjarah 'persona non grata', kienet attwalment decizjoni ta' l-intimat biss illi r-rikorrent jigi eskluż minn kollox, u dana sabiex ipattihielu tal-fatt illi ma hallasx għall-intervista.

Ikkunsidrat

Qabel ma tigi ikkunsidrata d-difiza ta' l-intimat, ikun opportun illi jigu kkunsidrat certi aspetti legali.

Dwar jekk email jikkwalifikax jew le bhala stampat jew xandira a tenur tal-Kap 248, għandha ssir referenza għall-artikolu principali illi jipprovdi għall-azzjoni odjerna kif ukoll għad-definizzjonijiet pprovvuti fl-istess Att.

L-Artikolu 3 tal-Kap 248 jipprovdi illi:

Ir-reati msemmija f'din it-Taqsima ta' dan l-Att isiru permezz tal-pubblikazzjoni jew tqassim f'Malta ta' stampat, ikun x'ikun il-post li minnu joriġina dak l-istampat, jew bil-mezz ta' xi xandir.

L-Artikolu 2 tal-Kap 248 jiddefinixxi 'pubblikazzjoni' bhala

kull att li bih kull stampat jigi jew jista' jigi ikkominikat jew imgħarraf lil xi persuna jew li bih kliem jew immaġini viżwali jiġu mxandra;

L-istess Artikolu jiddefinixxi 'stampat' bhala:

kull kitba stampata b'tipi tipografiċi jew bil-litografija jew b'mezzi jew proċessi oħra bħal dawn fuq karta jew sustanza oħra, kif ukoll kull kartellun jew avviż ieħor li jitwahaħhal li jkun fih xi sinjal jew kitba miktuba, stampata, impingija, riżaltata jew xort'oħra impressa, u tinkludi kull diska, tape, film jew mezz ieħor li bih kliem jew immaġini viżwali jistgħu jinstemgħu, jitwasslu jew jiġu riprodotti;

L-istess Artikolu jiddefinixxi ukoll il-kelma 'xandir' billi jiddefeniha bhala:

it-trasmissjoni permezz ta' fili jew minn gewwa l-arja, inkluża wkoll permezz ta' satellita, f'għamla kodifikata jew mhijiex; ta' kliem jew immaġini viżivi, sew jekk dawk il-kliem jew immaġini jkun fil-fatt riċevuti minn xi persuna sew jekk le.

Fil-kaz odjern, għandna komunikazzjoni varja illi saret permezz ta' email. Ghalkemm email ma jidherx illi hija kkunsidrata bhala 'xandir' da parte tal-legislatur, stante illi jidher li xandir huwa aktar intiz bhala dak li jintwera u jissemma fuq it-television u ir-radio, certament tali emails għandhom jitqiesu bhala 'stampat' stante illi l-ligi tikkontempla "jew mezz ieħor li bih kliem jew immaġini viżwali jistgħu jinstemgħu, jitwasslu jew jiġu riprodotti".

Għaldaqstant, il-Qorti ma għandha ebda dubju illi l-kontenut tal-emails huma suggetti għall-legislazzjoni li tirregola l-libelli, ossija l-Kap 248 tal-Ligijiet ta' Malta.

Dwar l-elementi tal-pubblicita' tal-email, il-Qorti tagħmel referenza għal dak illi qal il-**Gately on Libel and Slander** fejn jgħid is-segwenti:

No civil action can be maintained for libel or slander unless the words complained of have been published. "The material part of the cause of action in libel is not the writing, but the publication of the libel." In order to constitute publication, the matter must be published to (communicated to) party, that is to say, at least one person other than the claimant. "A cannot sue B for defaming him to A himself, or to B himself; that is to say where B reads to himself his libel on A and then locks it away. A must prove that B defamed him to C." Defamation protects a person's reputation and his reputation is not the good opinion he has of himself but the estimation in which others hold him. A defamatory statement about the claimant communicated to the claimant alone may injure his self-esteem but it cannot injure his reputation. The requirement that there be a publication to a third party is also a requirement of malicious falsehood.

...

It is not sufficient that the matter has been merely communicated to the third party: it is also necessary that it be communicated in such a manner that it may convey the defamatory meanings and that persons acquainted with the claimant could understand it to refer to him. If, therefore, a defamatory letter was handed to a person who could not read or who could not read the language in which it was written, there would be no publication nor would there be where words were spoken in a foreign language not understood by those who heard them"; and where a defendant sent to a third person on a privileged occasion a postcard defamatory of the plaintiff, though his name was not mentioned, and no stranger unacquainted with the circumstances would have identified him as the person referred to, it was held that there was no publication to the postman or other persons through whose hands the postcard passed."

Jirrizulta, fil-kaz odjern, illi l-intimat, fl-email illi dwaru jilmenta r-rikorrent fil-proceduri odjerni, dina l-email intbghatet lill terzi persuni, ossija lill-Ambaxxatrici tat-Tunesija kif ukoll ic-Charges D’Affairs ta’ l-istess Ambaxxata.

Jirrizulta ghalhekk illi, kif anke jikkontendi l-Gately, ladarba hemm pubblikazzjoni ta’ allegazzjoni dwar persuna lill terza persuna, hemm elementi sufficjenti ta’ pubblikazzjoni biex dawna l-emails ikunu suggett ta’ proceduri ta’ libel.

Ikkunsidrat

Jirrizulta, skond ma jinsisti l-intimat, illi r-rikorrent kien gharraq bl-intimat meta ingaggah jaghmillu intervista fuq il-magazine Economic Update u wara ma hallsux, peress illi l-intimat jikkontendi illi r-rikorrent ghamillu dan bi tpattija talli ma xtarax printer minghandu.

Jirrizulta illi, biex jissustanzja tali allegazzjonijiet, l-intimat jsemmi zewgt persuni, Stephen Holland u Andre Ribeiro, illi skond huma kienu huma illi gharrfuh li r-rikorrent kien ghamel hekk bie iqarraq bih.

Jirrizulta, madanakollu, illi l-intimat ma tellax lill Stephen Holland u Andre Ribeiro sabiex jikkonfermaw tali fatti, u jistrieb biss fuq emails illi l-intimat jghid illi gew mgghoddija lilu minn Andre Ribeiro, u partikolarment email datata 17 ta’ Ottubru 2013 fejn jinghad is-segwenti:

On another note did they ever decide in closing the Production Printing Sale (I am talking of Economic Update). I can always ask them to give us a deposit even if this

reflect the money for the advert. This way the sale would be blocked. Please advise. (fol 174 tal-Avviz Nru 157/14)

Jirrizulta illi l-intimat jikkontendi, fix-xhieda tieghu, illi r-rikorrent ghamel kollox bi tpattija kontra tieghu talli l-intimat ma xtarax minghand ir-rikorrent printer tad-ditta Konika Minolta illi kien jiswa madwar €50,000. (fol 141 tal-Avviz Nru 157/14)

Jirrizulta wkoll illi l-intimat jikkontendi illi l-email datata 17 ta' Ottubru 2013 fuq kwotata hija prova ta' dan.

Il-Qorti, madanakollu, ma tistax ma tosservax, l-ewwel u qabel kollox, illi l-intimat ippresenta zewgt kopji ta' l-istess email, wahda fejn il-kitba fuq riprodotta tinsab miktuba bil-karattri bl-iswed skur, ossija 'bold' (fol 174 tal-Avviz Nru 157/14), u email ohra identitka, izda fejn ma jidher ebda kitba bil-karatti bl-iswed skur ossija 'bold' (fol 184 tal-Avviz Nru 157/14), u l-Qorti ma tistax ma tikkonkludix illi wahda minn dawna z-zewgt emails hija mbaghbsa, bir-rizultat illi ma jistax jigi eskus wkoll illi l-kontenut ta' tali emails gie mbaghbas ukoll.

Apparti minn hekk, il-Qorti ma tistax ma' tosservax ukoll illi, f'kaz illi jitqies illi l-kontenut ta' tali email ma giex imbaghbas, l-email inniffsu jsemmi "Production Printing Sale" illi kien relatat ma' "I am talking of Economic Update" filwaqt illi l-kwistjoni tal-printer li jsemmi l-intimat hija kwistjoni illi tirrigwarda l-magazine Property & Life Magazine, kif jidher mill-email ta' l-intimat a fol 132A tal-process tal-Avviz Nru 157/14 kif ukoll l-Invoice illi tidher a fol 141 tal-Avviz Nru 157/14, liema magazine kienet propjeta esklussiva ta' l-intimat u ma kellhx x'taqsam assolutament xejn mal-magazine Economic Update, illi kienet tad-ditta Network Publications Limited.

Ikkunsidrat

Jirrizulta illi l-intimat jikkontendi illi d-decizjoni illi r-rikorrent jigi dikjarat bhala "persona non grata" ma kienetx tieghu, izda kienet ta' John Formosa, illi kien il-propretarju tad-ditta Network Publications Limited u li kien l-employer tieghu.

Sabiex jikkorroborata tali dikjarazzjoni, huwa pproduca bhala xhud lill Margaret Brincat, illi kienet tahdem flimkien ma' l-intimat gewwa Network Publications Limited u li bejniethom kien hemm relazzjoni.

Jirrizulta, madanakollu, illi l-intimat naqas illi jipproduci lill John Formosa, illi kien ikun l-ahjar prova sabiex jiskolpa lilu nniffsu mill-kontenut tal-varji emails illi l-intimat jghid li gew dejjem iddettati minn John Formosa.

Il-Qorti, madanakollu, ma tistax ma tosservax illi, fil-brochure illi kien gie prodott sabiex jippromuovi il-Malta-Tunisia-Libya B2B Networking Forum 2014 illi kien qieghed jigi organizzat u illi dwaru inqalghu dawn id-disgiwidi kollha li wasslu ghall-emails meritu tal-kawza odjerna, hemm miktub bl-aktar mod car is-segwent:

"The Economic Update's editor Martin Vella is organising a one day business even comprising of conference, forum with open debate, networking activities, exhibition display stands and entertainment"

Tali dikjarazzjoni tidher illi hija diametrikament opposta ghal dak illi jittenta x'jaghti jifhem l-intimat fil-proceduri odjerni, peress illi l-Qorti ma ghandhiex dubju illi kieku kien attwalment minnu illi John Formosa u d-ditta Network Publications Limited kienu attwalment qed jmexxu l-

organizzazzjoni huma stess, certament ma kienx jippermetti illi jinkiteb fil-brochure ufficjali illi kollox kien qiegħed isir mill-intimat biss!

Għaldaqstant, hija diffiċili li titwemmen u inverosimili illi ma kienx l-intimat illi baġat l-emails meritu tal-kawza odjerna, u dana huwa anke sopportat mill-varji emails illi esebew iz-zewgt partijiet, inkluz l-email twila illi baġat l-intimat lill-Konika fil-Gappun fil 31 ta' Jannar 2014, illi koll għandhom l-istess format u forma mentis fihom - dak illi jattakkaw lir-rikorrent u joskurawh ma kullmin qiegħed jaqra l-email.

Ikkunsidrat

Il-Qorti, finalment, ma tistax ma tagħmilx is-segweni osservazzjonijiet:

L-intimat, fid-difiza tiegħu, jipprova jiggustifika il-kontenut tal-emails tiegħu billi jgħid zewgt argumenti principali:

1. Illi *“ir-rikorrent innifsu kien palezement idejjaq lill- esponent biex bi prepotenza jattendi u jkun kelliem ewlieni f’attivita organizzata mill-esponent għan-nom tas-socjeta li jirraprezenta bla ma kien invitat li jagħmel dan u li saħansitra l-istess rikorrent kien sostna li kien ser jagħmel il-hsara lill esponent”*
2. Illi *“id-decizjoni li ir-rikorrent giet dikjarat persona non grata ma hadhiex l-esponent imma mill kumitat organizzattiv ta' l-event in kwistjoni”*.

Mill-provi prodotti, jirrizulta bl-aktar mod car illi l-Ambaxxata Tunesina, illi kienet qabddet lill-intimat sabiex jorganizza l-event, kienet tassew stiednet lir-rikorrent sabiex jittellem, kemm verbalment kif ukoll ufficjalment, izda kien l-intimat illi kien qiegħed jirrifjuta bis-saħha li l-intimat ma jikkellimx u baqa jirrifjuta sakemm attwalment ma marx għall-attivita', la ir-rikorrent u hadd mill-Libyan-Maltese Chamber of Commerce.

Mill-provi prodotti jirrizulta wkoll illi l-intimat f' ismu kien qiegħed jorganizza l-attivita' u ma kien hemm ebda kumitat organizattiv, kif jalludi l-intimat fid-difiza tiegħu. Ma ngiebet ebda tip ta' prova li turi l-involvement ta' John Formosa jew persuni oħra fit-tmexxija tal-konferenza.

Fl-aħhar nett, il-Qorti ma tistax ma tosservax illi, l-fatt illi persuna jkollha problema ma' persuna oħra u għalhekk ikun irrabjat ma' tali persuna għal xi azzjoni illi huwa jhoss illi saret kontrib, ma jagħtih ebda licenzja sabiex jattakka ir-reputazzjoni tal-persuna l-oħra ma persuni oħra illi huma għal kollox barra minn tali kwistjonijiet u illi ma kellhom ebda involviment fil-kwistjoni ta' bejniethom.

Il-fatt illi l-intimat hass il-htiega li jiccircola l-email b'allegazzjonijiet u deskrizzjoni tar-rikorrent bhala *‘negative, destructive and obstinate person’* u bhala persuna illi *“continue to do things behind our backs”* ma l-Ambaxxatrici Tunesina w ic-Charge D’Affair tagħha juri l-intenzjoni cara ta' l-intimat - illi jagħmel hsara lir-rikorrent u jipprova jimmalafama u jhassar ir-reputazzjoni tar-rikorrent ma' tali persuni.

Tali fatt, wahdu, huwa sufficjenti biex il-kaz kollu tar-rikorrent jigi ppruvat u kwalswiasi difiza illi qajjem l-intimat tkun meġħluba.

Konkluzjoni

Il-Qorti

Wara illi rat il-provi kollha prodotti quddiemha

Wara illi semgħet it-trattazzjoni ta' l-abbi difensur tal-partijiet

Tghaddi biex taqta u tiddeciedi l-kawza billi

Tichad l-eccezzjonijiet kollha ta' l-intimat u, għalhekk

Tilqa it-talbiet attrici kollha u għalhekk

Tiddikjara illi l-emails mibghuta mill-intimat fil 2 ta' Mejju 2014 lill terzi persuni kienu jikkontjeni kliem u allegazzjonijiet illi kienu malafamati u libelluzi fil-konfront tar-rikorrent u, a tenur tal-Artikolu 28 tal-Kap 248 tal-Ligijiet ta' Malta, u għalhekk

Tikkundanna lill-intimat Martin Vella iħallas lir-rikorrent Anthony Micallef is-somma ta' elfejn Euro (€2,000) bħala danni likwidati minn dina l-Qorti.

Spejjez tal-proceduri odjerni ikunu kollha a kariku ta' l-intimat.

Magistrat Francesco Depasquale

Rita Sciberras
Deputat Registratur