

**IN THE COURT OF MAGISTRATES (MALTA)  
AS A COURT OF CRIMINAL JUDICATURE**

**MAGISTRATE  
DR ANTHONY J VELLA BA, LL.D., MA**

**TODAY 15<sup>th</sup> March 2018**

**Inspector  
VS  
John Eric Fenech**

**The Court;**

After seeing the charges brought against John Eric Fenech, son of Francis and Vera nee' Grant, born in England on the 4<sup>th</sup> August 1954 and residing at 75, St. Joseph, Flat 1, Triq Ghajn Rasul, St. Paul's Bay, holder of ID Card no. 412500L;

Charged that in the Maltese Islands in mosta on the 31<sup>st</sup> July 2014 at around 7:30pm;

1. Without the intent to kill or to put the life of Anthony Sammut in manifest jeopardy, caused grievous bodily harm on the person of Anthony Sammut, a person who attained the age of sixty years, as certified by Dr. Leonard Farrugia from Mater Dei Hospital.

Having heard the prosecution and defence counsel make their submissions;

Having seen all the acts and documents exhibited;

**Considers:**

The facts of the case are as follows. The accused was driving his motorbike along Triq il-Fortizza tal-Mosta on the day in question. As soon as he approached Mosta Bridge to cut across into it on his right hand side, a van driven by Anthony Sammut manoeuvred out of the same junction and drove onto the same path as the accused's, with the result that the rear wheel of Fenech's motorbike got clipped by the van's bumper. Fenech lost control of his bike and fell, injuring himself in the process. He got up and allegedly assaulted Sammut, an elderly gentleman aged 67 years at the time, causing him injuries. Both parties had their injuries seen to by doctors. Fenech was taken to hospital by ambulance whereas Sammut went later that same evening. The Police appeared on site, took both parties' version of events, and subsequent charges were filed against Fenech.

The evidence submitted showed that the collision between the two vehicles occurred as described above. Fenech was coming from Naxxar and was turning onto the bridge towards Mosta, whereas Sammut was exiting the junction at the end of the bridge to turn onto his right towards Mosta centre, thus effectively cutting the pathway for Fenech. It must be pointed out at this stage that Sammut is blind from his left eye, which could explain his exiting the junction when a motorbike is approaching from his left hand side. As a result of this manoeuvre, the motorbike's rear wheel was clipped by the van, and Fenech lost control and

fell. He was visibly agitated and angry, as was reported by passers-by, so much so that he assaulted Sammut. Sammut sustained serious injuries to his groin region. He alleged that Fenech kicked him in his private parts more than once, resulting in the injuries better described in the medical reports filed in the proceedings. Luckily, the injuries did not lead to far more serious consequences.

The Court is of the opinion that Fenech's reaction may be understandable. Driving a motorbike is essentially exposing oneself to injury if another vehicle even barely nudges the bike. Most cyclists and motorcyclists express concern at motor vehicles being driven too closely to them, and any accident involving a motorbike inevitably results in injury to the rider concerned. This incident was no exception, and the collision appears to have been caused by Sammut's ill-timed, if not reckless, manoeuvre. However, understandable as Fenech's immediate reaction may be, it is completely unjustified and uncalled for to assault a person and cause the grievous injuries mentioned.

In his defence, the accused claims that he never hit Sammut. The Court, however, fails to understand how those injuries came about on that day out of thin air. They were obviously caused by severe blows to Sammut's groin, and the Court has no other option but to dismiss the defence put forward by the accused. For this reason, Fenech is being found guilty of the charge as put forward by the Prosecution. By way of punishment, the Court will be applying a suspended prison sentence.

**Now, therefore, the Court;**

After having seen the Articles 17, 31, 214, 215, 218, 222A (1), 382A, 383, 384, 385, 386 and 533 of Chapter 9 of the Laws of Malta;

This Court finds the said accused guilty as charged and condemns him to One year imprisonment suspended for two years in terms of Article 28A of Chapter 9 of the Laws of Malta.

The Court explained in clear words the terms of the judgement to the accused.

**DR ANTHONY G VELLA BA. LL.D. M.A.**  
**MAGISTRAT**