



**COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE
MAGISTRATE DR. GABRIELLA VELLA B.A., LL.D.**

**Police
(Inspector Josric Mifsud)**

Vs

Sean Anthony Mc Gahren

Today, 30th July 2018

The Court,

After having considered the charges brought against Sean Anthony Mc Gahren, a son of Patrick and Irene neè Clemence, born in Brighton, England, on the 15th April 1975, residing at “Solaris”, Penthouse 3, Factories Street, Xghajra, and holder of Identity Card Number 65502(L), of having in these islands on the 9th June 2018, sometime between half past four and quarter past five in the afternoon, (16:30-17:15hrs) at “Solaris,” Penthouse 3, Factories Street, Xghajra:-

1. Voluntarily caused injuries of a slight nature to the person of Vanessa Fenech, cohabitant, in violation of Sections 202(h)(i)(vi), 221(1) and 222(1)(a) of Chapter 9 of the Laws of Malta;
2. On the same date, time, place and circumstances voluntarily caused damage to two glass window panes when he shot through them, in violation of Section 325(1)(b) of Chapter 9 of the Laws of Malta;
3. Kept in any premises or had in possession, under his control or carried outside the premises or appurtenances a firearm namely a revolver make Chiappa with serial number 16G05411 or ammunition, without a licence under the Arms Act, in violation of Section 5(1) of Chapter 480 of the Laws of Malta;
4. Moreover whilst committing a crime against the person had on his person any arm proper or ammunition or any imitation thereof and failing to prove that he was carrying the firearm or arm proper for a lawful purpose and this in violation of Section 55 of Chapter 480 of the Laws of Malta;

5. On the same date, place, time and circumstances in any manner not otherwise provided for in Chapter 9 of the Laws of Malta wilfully disturbed the public good order or the public peace, in violation of Section 338(dd) of Chapter 9 of the Laws of Malta;
6. Without inflicting any wound or blow, threatened Vanessa Fenech with a revolver make Chiappa (weapon), in violation of Section 339(1)(b) of Chapter 9 of the Laws of Malta;
7. Attempted to use force against Vanessa Fenech with the intent to insult, annoy, hurt such person, unless the fact constitutes some other offence under any other provision of Chapter 9 of the Laws of Malta, in violation of Section 339(1)(d) of Chapter 9 of the Laws of Malta;
8. Uttered insults or threats not otherwise provided for in Chapter 9 of the Laws of Malta, or being provoked, carried his insult beyond the limit warranted by the provocation, in violation of Section 339(1)(e) of Chapter 9 of the Laws of Malta;

After having seen the request by the Prosecution that should the accused be found guilty of the charges brought against him, he is to be treated as a recidivist in terms of Sections 49 and 50 of Chapter 9 of the Laws of Malta, after being found guilty with a judgment issued by the Courts of Malta, which judgment is final and cannot be altered;

After having considered the request by the Prosecution that the accused be condemned to pay the costs incurred in connection with the appointment of Court experts in these proceedings in terms of Section 533(1) of Chapter 9 of the Laws of Malta;

After having examined all the documents submitted in the records of these proceedings namely: the Police incident report pertinent to this case - Doc. "A"; a statement released by the accused - Doc. "B"; an extract from the birth certificate of the accused - Doc. "C"; the conviction sheet of the accused - Doc. "D"; the consent by the Attorney General in the Maltese language - Doc. "E"; the consent by the Attorney General in the English language - Doc. "F"; and the Identity Card of the accused - Doc. "G";

After having seen the declaration by the *parte civile*, Vanessa Fenech, that she is withdrawing her complaint against the accused and consequently renounces to any form of action in his regard and after having seen the declaration by the Prosecution that following the declaration by the *parte civile*, the first, second, fifth, sixth, seventh and eighth charges are being withdrawn by it;

After having considered that now the only charges still standing against the accused are the third and fourth charges brought against him and the charge that

if found guilty, the accused is to be treated as a recidivist in terms of Sections 49 and 50 of Chapter 9 of the Laws of Malta;

After having heard the accused plead guilty to the third and fourth charges brought against him and the charge that he is a recidivist, and this also after the Court, in terms of Section 453(1) of Chapter 9 of the Laws of Malta, warned him in the most solemn manner of the legal consequences of his guilty plea after having given him sufficient time within which to reconsider and withdraw his guilty plea;

After having considered the Procès-Verbal bearing number 569/18 relative to the Inquiry conducted with regard to the incident forming the merits of these proceedings;

After having heard submissions regarding punishment;

Considers:

The accused is being charged of having in these islands on the 9th June 2018, sometime between half past four and quarter past five in the afternoon, (16:30-17:15hrs) at “Solaris,” Penthouse 3, Factories Street, Xghajra: (1) voluntarily, caused injuries of a slight nature to the person of Vanessa Fenech, cohabitant, in violation of Sections 202(h)(i)(vi), 221(1) and 222(1)(a) of Chapter 9 of the Laws of Malta; (2) on the same date, time, place and circumstances voluntarily caused damage to two glass window panes when he shot through them, in violation of Section 325(1)(b) of Chapter 9 of the Laws of Malta; (3) kept in any premises or had in possession, under his control or carried outside the premises or appurtenances a firearm namely a revolver make Chiappa with serial number 16G05411 or ammunition, without a licence under the Arms Act, in violation of Section 5(1) of Chapter 480 of the Laws of Malta; (4) moreover whilst committing a crime against the person had on his person any arm proper or ammunition or any imitation thereof and failing to prove that he was carrying the firearm or arm proper for a lawful purpose and this in violation of Section 55 of Chapter 480 of the Laws of Malta; (5) on the same date, place, time and circumstances in any manner not otherwise provided for in Chapter 9 of the Laws of Malta wilfully disturbed the public good order or the public peace, in violation of Section 338(dd) of Chapter 9 of the Laws of Malta; (6) without inflicting any wound or blow, threatened Vanessa Fenech with a revolver make Chiappa (weapon), in violation of Section 339(1)(b) of Chapter 9 of the Laws of Malta; (7) attempted to use force against Vanessa Fenech with the intent to insult, annoy, hurt such person, unless the fact constitutes some other offence under any other provision of Chapter 9 of the Laws of Malta, in violation of Section 339(1)(d) of Chapter 9 of the Laws of Malta; (8) uttered insults or threats not otherwise provided for in

Chapter 9 of the Laws of Malta, or being provoked, carried his insult beyond the limit warranted by the provocation, in violation of Section 339(1)(e) of Chapter 9 of the Laws of Malta.

During the sitting held on the 11th June 2018, the *parte civile* Vanessa Fenech declared that she is withdrawing her complaint against the accused and consequently renounces to any form of action in his regard. Following this declaration the Prosecution declared that as a consequence of the said declaration by the *parte civile*, the first, second, fifth, sixth, seventh and eighth charges brought against the accused are being withdrawn by it¹. Therefore the only charges still standing against the accused are the third and fourth charges brought against him and the charge that if found guilty, the accused is to be treated as a recidivist in terms of Sections 49 and 50 of Chapter 9 the Laws of Malta.

The accused pleaded guilty to the third and fourth charges brought against him and to the charge that he is a recidivist, which are the only charges now still standing against him.

In view of guilty plea by the accused, the Court finds him guilty of the third and fourth charges brought against him and also finds him guilty of the charge that he is a recidivist in terms of Sections 49 and 50 of Chapter 9 of the Laws of Malta.

In so far as concerns punishment the Court, whilst taking into account the nature of the charges still standing against the accused, also took into account the circumstances which led to the incident forming the merits of these proceedings, the fact that the *parte civile* withdrew her complaint against the accused during the arraignment and declared that she renounces to any form of action against him and the fact that the accused submitted a guilty plea at an early stage of the proceedings.

Now therefore after having seen and considered Sections 5(1), 51(2) and the proviso thereto and Section 55(a) of Chapter 480 of the Laws of Malta and Sections 49 and 50 of Chapter 9 of the Laws of Malta, the Court whilst reiterating that it is finding the accused guilty of the third and fourth charges brought against him and also finds him guilty of being a recidivist in terms of Sections 49 and 50 of Chapter 9 of the Laws of Malta, condemns him to a fine (*multa*) amounting to seven hundred Euro (€700), which fine (*multa*) must be paid within a period of seven (7) months from today by means of monthly instalments each amounting to one hundred Euros (€100). Should the accused fail to pay any one or more instalments, the whole of the amount outstanding shall become and

¹ Vide minutes of the sitting held on the 24th July 2018.

be immediately due and payable, and all the provisions of the Criminal Code, Chapter 9 of the Laws of Malta, applicable to the imposition of a fine (*multa*) and to the imprisonment in default of payment thereof, shall apply accordingly.

In terms of Section 56 of Chapter 480 of the Laws of Malta the Court orders the confiscation of the revolver make Chiappa used by the accused during the execution of the crimes forming the merits of these proceedings, for which crimes he submitted a guilty plea and in terms of Section 57 of Chapter 480 of the Laws of Malta the Court further prohibits the accused from obtaining or holding a licence under the Arms Act, Chapter 480 of the Laws of Malta.

In so far as concerns the request by the Prosecution that in terms of Section 533 of Chapter 9 of the Laws of Malta the accused be condemned to pay costs incurred in the connection with the appointment of experts in the examination of the Procès-Verbal of the Inquiry, the Court condemns the accused to pay the Registrar of Criminal Courts the sum of €1,128.30, which sum is to be paid in five (5) consecutive monthly payments of €225.66 each, with the first payment falling due on the 30th August 2018.

MAGISTRATE

DEPUTY REGISTRAR