



MALTA

FIL-QORTI TAL-MAGISTRATI TA' MALTA

Magistrat Francesco Depasquale

LL.D. LL.M. (IMLI)

Illum l-Hamis, 18 ta' Ottubru 2018

Rikors Numru 184/2014

**Mario Salerno
(ID 304154M)**

vs

Onorevoli Dottor Joseph sive Beppe Fenech Adami u l-Partit Nazzjonalista

Il-Qorti,

1. Premessi

1. Rat ir-rikors promotur ippresentat fit-22 ta' Mejju 2014 fejn ir-rikorrenti talab lill-Qorti tikkundanna lill-intimati:

prevja dikjarazzjoni li permezz ta' pubblikazzjoni intitolata "Malta Taghna Lkoll Official Sticker Album", ghal-liema pubblikazzjoni il-konvenut Partit Nazzjonalista huwa responsabbli, liema pubblikazzjoni ghandha 1-ghan li ttlef jew tnaqqas ir-reputazzjoni tal-attur billi tikkontjeni ritratt tal-istanti bil-caption "II-Kandidati, eks- Kandidati u eks-Deputati jieklu wkoll" kif ukoll "Mario Salerno Eks-Sindku Kirkop u Eks-Sindku San Pawl il-Bahar Chairman Awtorita Kompetenti tal-Organic Farming f'Malta"; kif ukoll permezz ta' diskors li 1-konvenut l-iehor, 1-Onorevoli Fenech-Adami, ghamel waqt konferenza tal-ahbarijiet gewwa Misrah San Gorg, il- Belt Valletta nhar il-21 ta' Mejju 2014 fejn allega li l-imsemmija pubblikazzjoni fiha ritratti ta' mitejn persuna li "ged igawdu taht dan il-Gvern", "hatfu u kielu kemm felhu" u qeghdin jithallsu b' "pagi

fenomenali" u "perkacci lussuzi" intom tajtu malafama lill-attur, thallsu dik is-somma li tigi minn din 1-Onorabbli Qorti stabbilita f'ammont ta' mhux izjed minn hdax-il elf, sitt mija u sitta u erbghin Euro u sebgha u tmenin centezmu (11,646.87) u dan fit-termini tal-Artikli 23, 24A u 28 tal-Att dwar 1-Istampa (Kap. 248 tal-Ligijiet ta' Malta). Bl-ispejjez kontra l-konvenuti li minn issa huma ngunti in subizzjoni.

2. Rat ir-risposta ta' l-intimati ipprezentata fit-2 ta' Lulju 2014 fejn laqghu ghal dak mitlub billi qajjmu is-segwenti difizi:

1. *In linea preliminarj, illi i-Partit Nazzjonalista ghandu jigi liberat mill-osservanza tal-gudizzju billi mharrek hazin stante illi bhala partit, kellhom jitharrku l-persuni li ghandhom ir- rapprezentanza guridika ghan-nom u in rapprezentanza tal-partit.*

2. *Illi fil-mertu, illi t talbiet tar-rikorrenti ghandhom jigu michuda billi:*

- (a) *Il-kontenut tal-pubblikazzjoni msemija fir-rikors promotur mhix libelluza billi tammonta ghall-fair comment fuq fatti sostanzjalment korretti.*

- (b) *Illi l-kliem attribwit lill-intimat Fenech Adami ma ntqalx kif ikkwotat fir-rikors promotur; u*

- (c) *Illi l-kliem li attwalment qal l-intimat Fenech Adami jammonta ghall-fair comment fuq fatti sostanzjalment korretti.*

2. Provi

1. Semghet ix-xhieda ta' **Dennis Buttigieg**, rapprezentant tas-Segretarju Permanenti fil-Ministeru ghall-Izvilupp Sostenibbli, prodott mir-rikorrent u moghtija fl-1 ta' Dicembru 2014 u rat id-dokumentazzjoni minnu esebiti, ossija Avviz Nru 475 tas-sena 2013 datata 4 ta' Gunju 2013 (fol 15), u domandi parlamentari illi saru fis 17 ta' Novembru 1998, 13 ta' Frar 2001 u u ohra fit-13 ta' Frar 2001.
2. Ra illi fis 16 ta' Frar 2015 il-Qorti giet infurmata illi l-partijiet kienu qed jesploraw il-possibilita' ta' transazzjoni, liema transazzjoni fis seduta tat-12 ta' Marzu 2015 l-partijiet gharrfu lill-qorti illi ma kellhiex esitu possittiva.
3. Semghet ix-xhieda ta' **Dr Chris Said**, Segretarju Generali tal-Partit Nazzjonalista, prodott mir-rikorrent u moghtija fis 6 ta' Lulju 2015, u rat id-dokumentazzjoni minnu esebita, ossija l-pubblikazzjoni intitolat 'Malta Taghna Lkoll Official sticker album' (fol 34).
4. Semghet ix-xhieda tar-rikorrent **Mario Salerno** moghtija fit 22 ta' Ottubru 2015, fis 26 ta' Novembru 2015, fl-14 ta' Marzu 2016.
5. Rat l-affidavit ta' Mario Salero ppresentat fis 27 ta' Gunju 2016 fejn esebixxa traskrizzjoni ta' rappurtagg illi deher fuq l-ahbarjiet ta' Television Malta fil 21 ta' Mejju 2014 flimkien ma' DVD ta' tali ahbarjiet..

6. Rat illi fit 12 ta' Jannar 2017 ir-rikorrent iddikjara illi ma kellux aktar provi x'jippresenta.
7. Semghet ix-xhieda ta' **Dr Beppe Fenech Adami** moghtija fis 16 ta' Marzu 2017 u rat id-dokumentazzjoni minnu ppresentati, ossija serje ta' artikoli differenti dwar kummenti illi kienu saru waqt l-kampanja elettorali tas-sena 2013 u wara mill-prim Ministru Joseph Muscat.
8. Semghet ix-xhieda in kontro ezami ta' Dr Beppe Fenech Adami moghtija fil 25 ta' Jannar 2018.
9. Rat it-traskrizzjoni tal-Bullettin ta' Ahbarjiet ta' NET TV mxandar fil 21 ta' Mejju 2014, u li giet ippresentata mir-rikorrent fil 15 ta' Marzu 2018.
10. Rat illi fis 26 ta' April 2018 l-intimat iddikjara illi ma kellux aktar provi x'jippresenta.
11. Rat in-nota ta' sottomissjonijiet ta' l-abbli difensur tar-rikorrent ippresentat fil 11 ta' Gunju 2018.
12. Rat in-nota ta' sottomissjonijiet ta' l-abbli difensuri ta' l-itnemat ippresentat fit 18 ta' Gunju 2018.
13. Rat illi fil 5 ta' Lulju 2018 il-kawza giet differita ghall-15 ta' Ottubru 2018.

3. Konstatazzjonijiet fattwali.

1. Jirrizulta illi r-rikorrent kien persuna pubblika, fejn fil-passat kien okkupa kemm il-kariga ta' Sindku ta' Hal Kirkop u, sussegwentement, l-kariga ta' Sindku ta' San Pawl il-Bahar, fejn fiz-zewgt okkazzjonijiet ikkontesta l-elezzjonijiet ghall-Partit Laburista.
2. Jirrizulta illi fl-4 ta' Gunju 2013, r-rikorrent kien appuntat bhala Chairman tal-'Awtorita' Kompetenti dwar l-Agrikultura Organika f'Malta', u dana kif jidher fl-avviz nru 475 tas-sena 2013 datat 4 ta' Gunju 2013 u li gie ppubblikt fil-Gazzetta tal-Gvern. (fol 15)
3. Jirrizulta illi f'Mejju tas-sena 2014, waqt illi kienet ghaddejja il-Kampanja Elettorali ghall-elezzjoni tal-Membri tal-Parlament Ewropew, il-Partit Nazzjonalista kien hareg pubblikazzjoni msejjjah '**Malta Taghna Ikoll – Official Sticker Album**', fejn gew ippubblikat "**aktar minn 200 ritratt**" ta' persuni illi l-faccata ta' l-istess pubblikazzjoni tindika bhala "**Edizzjoni tal-Qalba BISS**"
4. Jirrizulta illi f'tali pubblikazzjoni, ir-ritratti pubblikati gew suddivizi hdax-il grupp differenti, imsejjha kif gej:
 - "*Grupp A: Hatriet ghall-Familja u l-Qraba tal-Ministri u l-Ufficjali tal-Partit Laburista*"
 - "*Grupp B: Membri Parlamentari Laburisti: Min ma sarx Ministru, jiekol b'aktar minn halq wiehed*"
 - "*Grupp C: Hatriet Pubblici ghall-Ufficjali u Mexxejja tal-Partit Laburista*"
 - "*Grupp D: Hbieb tal-Familja ta' Joseph Muscat*"
 - "*Grupp E: Il-Kandidati, eks-Kandidati u eks-Deputati jieklu wkoll*"
 - "*Grupp F: Il-Kandidati ghall-Parlament Ewropew jiehdu bicca mill-kejk ukoll*"
 - "*Grupp G: Minn fuq billboard ghal fuq bord; Opinjonisti u forcini ohra*"
 - "*Grupp H: Tas-Super 1 imaxtru wkoll: Tuzzana jiehdu €3,000,000 bejniethom*"

- “Grupp I: Hatriet lill-hbieb privileggjati tal-GWU”
 - “Grupp J: promozzjonijiet lil tal-qalbda fl-Armata”
 - “Grupp K: Kabinett akbar li jiswa €8.5 miljun aktar fis-sena”
5. Jirrizulta illi f’pagna tal-pubblikazzjoni, fil-parti tal-pubblikazzjoni intitolat *Grupp E: Il-Kandidati, eks-Kandidati u eks-Deputati jieklu wkoll jidher ritratt tar-rikorrent fost erbgha ritratti illi hemm f’tali pagna, u hdejn l-isem “Mario Salerno”, kien hemm il-klien “Eks-Sindku Kirkop u Eks Sindku San Pawl il-Bahar” u l-kliem “Chairman Awtorita’ Kompetenti tal-Organic Farming f’Malta”.*
 6. Jirrizulta illi fil-21 ta’ Mejju 2014, waqt illi kienet ghaddejja l-kampanja elettorali ghall-Elezzjoni ta’ Membri tal-Parlament Ewropew fuq imsemmija, saret Konferenza Stampa mill-intimat, dak iz-zmien Vici Kap tal-Partit Nazzjonalista, fejn ippresenta tali ppubblikazzjoni w ikkummenta dwar dak hemm ippubblikat, liema Konferenza Stampa giet irrappurtata fuq il-mezzi tax-xandir, fosthom fuq l-ahbarjiet ta’ l-istazzjonijiet Televizivi TVM u Net TV.
 7. Jirrizulta illi r-rikorrent gie a korrent ta’ dak illi kien gie rappurtat fuq il-mezzi tax-xandir u l-ghada, 22 ta’ Mejju 2014, intavola l-proceduri odjerni.

4. Konsiderazzjoni Legali

1. Jirrizulta illi d-difiza ta’ l-intimati kienet msejsa fuq zewgt binarji: dik preliminari fejn intqal illi l-Partit Nazzjonalista kellu jigi liberat mill-osservanza tal-gudizzju stante illi kellhom jitharrku l-persuni illi jirrappresentawh; u dik fil-meritu fejn stqarrew illi l-pubblikazzjoni kienet ‘*fair comment*’ fuq fatti sostanzjament korretti filwaqt illi l-kliem indikati fir-rikors promotur ma ntqalux mill-intimat Dr Beppe Fenech Adami izda l-kliem attwalment illi qal kient ‘*fair comment*’ fuq fatti sostanzjament veri.
2. Dwar l-ewwel difiza, l-Qorti ser tikkummenta aktar tard. Dwar id-difiza principali ta’ ‘*fair comment*’, ikun iportun illi jitqiesu xi principji generali stabblilit mill-Qrati lokali u esteri dwar tali kuncett.
3. Kif intqal fis-sentenza **Ligens vs Austria**, mhaddna mill-Qorti Maltin ukoll, il-politiku huwa soggett ghall-livell ta’ kritika ferm oghla minn-normal, u di fatti, s-sentenza tghid:-

The limits of acceptable criticism are accordingly wider as regards a politician as such than as regards a private individual. Unlike the latter, the former inevitably and knowingly lays himself open to close scrutiny of his every word and deed by both journalists and the public at large, and he must consequently display a greater degree of tolerance. No doubt Article 10 para. 2 (art. 10-2) enables the reputation of others - that is to say, of all individuals - to be protected, and this protection extends to politicians too, even when they are not acting in their private capacity; but in such cases the requirements of such protection have to be weighed in relation to the interests of open discussion of political issues.

4. Kif intqal fil-Qorti Ewropea ghad-Drittijiet tal-Bniedem fil-kawza **Chauvy and Others vs France** deciza fid 29 ta’ Gunju 2004,

Freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and each

individual's self-fulfilment. Subject to paragraph 2 of Article 10, it is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no "democratic society". As set forth in Article 10, this freedom is subject to exceptions, which must, however, be construed strictly, and the need for any restrictions must be established convincingly.

5. Kif gie osservat fil-kawza **Delphi AS vs Estonia** deciza mill-Qorti Ewropeja tad-Drittijiet tal-Bniedem fl-10 ta' Ottubru 2013, id-dritt tal-liberta' ta' l-espressjoni, li giet invokata mill-intimat, giet ikkunsidrata kif gej:

78. The fundamental principles concerning the question whether an interference with freedom of expression is "necessary in a democratic society" are well established in the Court's case-law and have been summarised as follows:

- (i) Freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual's self-fulfilment. Subject to paragraph 2 of Article 10, it is applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism, tolerance and broadmindedness without which there is no 'democratic society'. As set forth in Article 10, this freedom is subject to exceptions, which ... must, however, be construed strictly, and the need for any restrictions must be established convincingly ...*

.....

80. The Court reiterates that the right to protection of reputation is a right which is protected by Article 8 of the Convention as part of the right to respect for private life. In order for Article 8 to come into play, however, an attack on a person's reputation must attain a certain level of seriousness and be made in a manner causing prejudice to personal enjoyment of the right to respect for private life.

81. When examining whether there is a need for an interference with freedom of expression in a democratic society in the interests of the "protection of the reputation or rights of others", the Court may be required to ascertain whether the domestic authorities have struck a fair balance when protecting two values guaranteed by the Convention which may come into conflict with each other in certain cases, namely on the one hand freedom of expression protected by Article 10, and on the other the right to respect for private life enshrined in Article 8.

82. The Court has found that, as a matter of principle, the rights guaranteed under Articles 8 and 10 deserve equal respect, and the outcome of an application should not, in principle, vary according to whether it has been lodged with the Court under Article 10 of the Convention by the publisher of an offending article or under Article 8 of the Convention by the person who has been the subject of that article. Accordingly, the margin of appreciation should in principle be the same in both cases.

83. *The Court has considered that where the right to freedom of expression is being balanced against the right to respect for private life, the relevant criteria in the balancing exercise include the following elements: contribution to a debate of general interest, how well known the person concerned is, the subject of the report, the prior conduct of the person concerned, the method of obtaining the information and its veracity, the content, form and consequences of the publication, and the severity of the sanction imposed.*

6. Fil-kawza **Erla Hlynisdottir vs Iceland** deciza mill Qorti Ewropeja ghad-Drittijiet tal-Bniedem fil 21 ta' Ottubru 2014, intqal is-segwenti:

A fundamental distinction should be made between statements that are to be categorized as factual assertions and value judgments. In its contextual examination of the disputed statement as a whole, the Court must carry out its own evaluation of the impugned statement. Furthermore, the Court has acknowledged that the distinction between value-judgments and statements of fact may be blurred, and that the issue may need to be resolved by examining the degree of factual proof.

7. Dana l-argument huwa rifless anke fid-decizjoni illi l-istess Qorti kienet tat fil-kawza **Sizma vs Hungary** deciza f'Ottubru 2012 fejn intqal is-segwenti:

"The Court would add that in order to assess the justification of the statements in question, a distinction needs to be made between statements of fact and value judgments, in that, while the existence of facts can be demonstrated, the truth of value judgements is not susceptible of proof. The requirement to prove the truth of a value judgment is generally impossible to fulfil and infringes freedom of opinion itself, which is a fundamental part of the right secured by Article 10. The classification of a statement as a fact or a value judgment is a matter which, in the first place, falls within the margin of appreciation of the national authorities, in particular the domestic courts. However, even where a statement amounts to a value judgment, there must exist a sufficient factual basis to support it, failing which it may be."

8. Dwar 'fair comment', imbgħad, **Gatley on Libel and Slander** jghid:

To succeed in a defence of fair comment the defendant must show that the words are comment, and not a statement of fact. He must also show that there is a basis of fact for the comment, contained or referred to in the matter complained of. Finally, he must show that the comment is on a matter of public interest, one which has expressly or implicitly put before the public for judgment or is otherwise a matter with which the public has a legitimate concern. If, however, the plaintiff can show that the comment was not made honestly or was actuated by malice, he will defeat the plea.

9. Fil-kawza **Dr Louis Galea vs Etienne St John u Felix Agius** deciza fit 30 ta' April 2015, intqal is-segwenti :

... dwar l-aspett tad-difiża tal-kumment gust ilu żmien jingħad mill-Qrati tagħna li, biex id-difiża tal-kumment gust tkun tgħodd, jeħtieġ li min jistrieħ fuqha jseħħlu juri li (a) l-kumment kien imsejjes fuq fatt li jkun issemma fil-pubblikazzjoni li

minnha jitressaq l-ilment; (b) il-fatt imsemmi jrid ikun sostanzjalment minnu; (ċ) il-kumment irid jintwera li jkun ġustifikabbli jew misthoqq; (d) il-kumment irid ikun tali li jikkwalifika bħala kritika u mhux żebliħ, tgħajjir jew insolenza; u (e) irid jagħti l-fehma onesta tal-kummentatur u li l-pubblikazzjoni ta' dik il-fehma ma saritx b'hażen jew bil-ħsieb preċiż li jwegġa' lil dak li jkun.

10. Tali tagħlim huwa anke rifless f' ġurisprudenza estera u, di fatti, fil-kawza **Spiller vs Joseph** deciza mill-Qorti tal-Appell Ingliza fl-1 ta' Dicembru 2010, Lord Phillips ghamel is-segwenti konsiderazzjonijiet meta wiehed iqis id-difiza ta' 'fair comment':

A subsidiary but important issue was what it was that a defendant had to prove in order to establish the defence of fair comment. Counsel for the plaintiff submitted that the defendant had to establish that: (i) the words complained of were comment; (ii) the comment was on facts; (iii) the facts commented on constituted a matter of public interest; (iv) the comment was objectively “fair”; that is the comment was one that was capable of being honestly founded on the facts to which it related, albeit by someone who was prejudiced and obstinate; (v) the comment represented the defendant’s honest opinion. If he discharged all these burdens, the defence could none the less be defeated by proof of malice on the part of the defendant, but the onus of proving malice lay on the plaintiff. Both the Court of Appeal and the House of Lords held that there was no burden on the defendant to establish the fifth element. The defendant’s honesty was assumed unless the plaintiff could disprove it by establishing malice.

11. Finalment, kif osservat dina l-Qorti, kif ppresjeduta, fil-kawza ‘**Jesmond Mugliette vs Alfred Sant**’

Din il-Qorti tirrileva wkoll illi wasal il-mument illi tali regola titwessa aktar fis-sens illi meta jkun hemm dibattitu politiku għaddej bejn politici, tali livell ta' kritika għadha interpretata f'livell aktar wiesgha minn dak ipprovdut hawn fuq, peress illi d-dibattitu politiku huwa l-pern ta' soċjeta demokratika u, għalhekk għandha tigi protetta u stimulata minn dina l-Qorti u mhux imxekkla fl-operat tagħha.

5. Konsiderazzjonijiet Finali

1. Jirrizulta, mill-provi prodotti illi, a differenza ta' dak allegat mill-intimat Partit Nazzjonalista fis-sottomissjonijiet finali tiegħu, imkien, tul il-proceduri kollha, ma gie ppresentat Statut tal-Partit Nazzjonalista in sostenn tad-difiza imressaq mill-istess Partit Nazzjonalista, u kien jispetta lill-istess Partit Nazzjonalista illi jipprova dan minnu allegat – ossija illi l-persuni li għandhom ir-rappresentanza ġuridika tal-Partit Nazzjonalista kellhom jitharrku – għalhekk l-intimat Partit Nazzjoanlista ma rnexxilux jipprova d-difiza preliminari tiegħu.
2. Jirizulta ammess mir-rikorrent stess illi huwa kien “*eks Sindku ta' Hal Kirkop*” kif ukoll “*eks Sindku ta' San Pawl il-Bahar*”, kif kien deskritt fil-pubblikazzjoni illi wasslet għall-proceduri odjerni, liema karigi huwa kellu wara li kkandida ruħhu fiz-zewgt lokalitajiet mal-Partit Laburista.

3. Jirrizulta ppruvat mill-intimat u anke ammess mir-rikorrent stess, illi fl-4 ta' Gunju 2013, ossija ftit xhur wara illi kien gie elett fil-Gvern il-Partit Laburista, huwa kien gie appuntat bhala Chairman tal-Awtorita' Kompetenti dwar l-Agrikolu Organika f'Malta.
4. Jirrizulta, ghalhekk, illi dak dikjarat dwar ir-rikorrent fil-pubblikazzjoni mahrug mill-Partit Nazzjonalista kienu kollha fatti sostanzjalment korretti, peress illi kien *"eks Sindku ta' Hal Kirkop"* kif ukoll *"eks Sindku ta' San Pawl il-Bahar"* u kien gie appuntat bhala Chairman tal-Awtorita' Kompetenti dwar l-Agrikolu Organika f'Malta.
5. Jirrizulta illi, fil-provi kollha prodotti mir-rikorrent, huwa pproduca traskrizzjoni ta' dak illi kien gie rappurtat fuq l-ahbarjiet tat-TVM kif ukoll dak illi kien rappurtat fuq NET TV, dan ta' l-ahhar ri-prodott ghal darba ohra fil-15 ta' Marzu 2018.
6. Jirrizulta illi r-rikorrent ma kienx f'pusizzjoni jipproduci prova dwar il-kliem illi attwalment qal l-intimat Dr Beppe Fenech Adami, ghajr ghal dak illi kien irrapurtat fuq Net TV, fejn huwa jidher jghid is-segwent:

Hemm hafna nies genwini illi jemmnu illi f'dan il-pajjiz illum ghandekk grupp zghir ta' nies, ghandhek mitejn ruh, illi ma jinteressahomx fil-poplu Malti. Dan huwa Gvern illi mhux jiffoka fuq il-qghad per eżempju, mhux qed jiffoka fuq il-bzonnijiet fil-qasam tas-sahha, mhux qed jiffoka fuq il-bzonnijiet f'dak li ghandu x'jaqsam il-medicini, fuq il-medicini out of stock, fuq il-waiting lists, dan huwa gvern iffukat biex jaqdi lil tal-qalba.

7. Jirrizulta illi, fix-xhieda tieghu moghtija fis-16 ta' Marzu 2017, l-intimat Dr Beppe Fenech Adami jghid dan dwar dak allegat mir-rikorrent, is-segwent:

Jigifieri il-press conference, bir-rispett kollu lejn is-Sur Salerno ma kienetx fil-konfront tas-Sur Salerno. Il-kritika u l-kampanja tal-Partit Nazzjonalista ma kinetx fil-konfront tas-Sur Salreno u n-numru li hemm hemm gew. Il-kritika fil-konfront kienet – jien nghid kritika iggustifikata fil-konfront ta' partiti politiku issa fil-gvern illi kiser weghda (jien nghid) fundamentali probabbilment li rebbhitu l-elezzjoni generali. U allura jiena nghid li l-Partit Nazzjonalista u jien kont iggustifikat illi mmur hemmhekk u naghti lista ta' persuni li gew innominati Sur Magistrat bi ksur ta' weghda li ghamel il-partiti politiku ewlieni.

8. Jirrizulta car illi l-kummenti illi saru mill-intimat, fil-kapacita' tieghu ta' Vici Kap tal-Partit Nazzjonalista, kienu kummenti politici, maghmulha waqt kampanja Elettorali illi kienet ghaddejja dak iz-zmien u li kellha bhala bazi tal-Partit Nazzjonalista l-argument illi l-Partit Laburista kien naqas milli jonora l-ghajta tieghu *"Malta Taghna Lkoll"* illi biha kien tela' fil-Gvern fis-sena 2013, u kien attwalment appunta varji persuni ta' lealta lejn il-Partit Laburista, u fosthom kien hemm ir-rikorrent.
9. Jirrizulta car illi la l-intimat Dr Deppe Fenech Adami u wisq anqas il-pubblikazzjoni mahruga mill-Partit Nazzjoanlista ma qatt indikaw illi r-rikorrent kien qieghed igawdi minn *"pagi fenomenali"* u *"perkacci lussuzi"*, kif indika r-rikorrent fl-avviz promotur tieghu, u l-unika haga illi ghamlu z-zewgt intimati kien illi jindikaw li r-rikorrent, bhala ekx Sindku ta' zewgt lokaitajiet differenti bhala kandidat tal-Partit Laburista, kien inghata kariga Governattiva bhala Chairman ta' Awtorita' Kompetenti tal-Organic Farming f'Malta, fatti illi jirrizultaw veri.

10. Jirrizulta car ghalhekk illi l-kummenti illi ghamlu z-zewgt intimati kienu kummenti ibbazati fuq fatti sostanzjalment certi.
11. Jirrizulta finalment illi r-rikorrent, fil-mument tal-pubblikazzjoni, kien persuna pubblika, peress ill kien Chairman ta' Awtorita' tal-Gvern, liema nomina tieghu giet sahansitra ppubbblikata fuq il-Gavveta tal-Gvern.
12. Jirrizulta wkoll illi r-rikorrent kien ukoll persuna pubblika precedentement, stante illi kien Sindku ta' zewgt lokalitajiet differenti f'zewgt periodi differenti. Ghalhekk, bhala persuna pubblika, u aktar u aktar bhala persuna involuta fil-politika, kummenti fuq l-attivitajiet tieghu huwa permessibbli fuq livell ferm oghla minn dik ta' persuna komuni, u dan sakemm tali kummenti huma bbazi fuq fatti sostanzjalment korretti, liema fatti, mill-provi prodotti, jidhru lkoll korretti.
13. Ghalhekk, ma jirrizultax illi dak ppubblikat mill-intimat Partit Nazzjoanlista kif ukoll kummenti illi seta ghamel l-intimat Dr Beppe Fenech Adami fil-konfront tar-rikorrent jistghu qatt jitqiesu bhala libelluzi u malafamanti fil-konfront tieghu.

6. Konkluzjoni

Il-Qorti,

Wara illi rat il-provi kollha prodotta quddiemha,

Wara illi rat is-sottomissjonijiet ta' l-abbli difensuri taz-zewgt partijiet

Tghaddi biex taqta u tiddeciedi l-kaz billi

Tichad l-ewwel eccezzjoni ta' l-intimat Partit Nazzjonalista,

Tilqa it-tieni eccezzjoni taz-zewgt intimati, u ghalhekk

Tichad it-talba attrici

Spejjez kollha tal-proceduri odjerni ikunu a kariku tar-rikorrent.

Magistrat Francesco Depasquale

Rita Sciberras
Deputat Registratur