



**Court of Magistrates (Malta)
As a Court of Criminal Judicature**

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

**The Police
(Inspector Robert Vella)**

-vs-

**Sangeeth Kanichayi Gangadharan, holder of identity card number
205537(A) and Indian passport number P9138127.**

Criminal Inquiry No.: 08/2020

Today, the 20th day of January, 2020

The Court,

Having seen the charges brought against the accused **Sangeeth Kanichayi Gangadharan** for having:

**On the 08th of January, 2020, at about 09:30hrs, at residence bearing address
40, Carini Street, Santa Venera:-**

1. Without intent to kill or to put the life of any person in manifest jeopardy, he caused harm to the body or health of his wife Shabna Sasidharan, and after physically assaulting her, caused injuries of grievous nature as certified by Dr. Dalli-Badjadi M.D. (Reg. No. 3358) of Floriana Health Centre and/or any other Medical Doctor/s;
2. and also on the same date, place, time, and circumstances, and even during the previous months, caused his wife Shabna Sasidharan, fear that violence will be

used against them or their property or against the person or property of any of their ascendants, descendants, brothers and sisters;

3. and on the same date, location and circumstances, and even during the previous months, insulted, threatened or injured verbally or in any other way his wife Shabna Sasidharan.

The honourable Court is kindly being asked to consider this case as one of Domestic Violence in terms of Chapter 581 of The Laws of Malta.

The court may, where it deems it fit, in order to provide for the safety of Shabna Sasidharan or for the keeping of the public peace, or in order for protection of the mentioned person and his family from harassment or course of conduct that causes fear of violence, issue a protection order against the accused in terms of Article 412C of Chapter 9 of the Laws of Malta, and in case of guilt the Court is requested to provide for the security of the persons effected and their families in terms of Articles 382A, 383, 384, 385 u 412D of Chapter 9 of the Laws of Malta.

The Honourable Court is kindly being asked that in case of guilt, other than applying the punishment according to law, order the defendant to pay the costs that must relate to the appointment of experts as in Article 533 Chapter 9 of the Laws of Malta.

Whereas during the sitting held on the 13th January, 2020, the accused plead guilty to the charges brought against him, notwithstanding the fact that the Court warned him in the most solemn manner of the legal consequences of his guilty plea, and after having given him sufficient time within which to reconsider and withdraw his guilty plea;

Having heard the accused re-iterate his guilty plea after the court warned him of the punishment and consequences such an admission entailed;

Having heard witnesses;

Having seen all the acts and documents exhibited;

Having heard the prosecution and defence counsel make their submissions;

Considers:

Having heard the guilty plea of the accused to the charges brought against him, the Court has no alternative but to declare the accused guilty of the said charges.

Whereas the punishment for the third charge is absorbed by the first two charges.

With regards to punishment the Court considered the nature of the offences brought against the accused and all other circumstances of the case. The offence of grievous bodily harm of which the accused stands charged is that envisaged by Article 216 of the Criminal Code which carries a punishment of imprisonment ranging between one year and seven years. This punishment is increased by one degree given that it was committed on a spouse. The punishment to be meted out must reflect the repulsiveness elicited by the accused's conduct. There can be no justification nor excuse for such brutality. Nonetheless the Court took note of the accused's early admission of guilt and his clean criminal record. These factors must also weigh in on the Court's considerations on punishment.

The Court cannot but note once more that whilst a number of offences of lesser gravity, such as that of harassment envisaged by article 251A of the Criminal Code, have seen the applicable punishment increase through amendments made in virtue of *Act XIII of 2018*, the far serious offence envisaged by article 251B of the said Code was neglected. Hence, as this Court had already occasion to underline in other judgements on the matter, what exists today is the incongruous and anomalous situation where conduct which is not accompanied by a threat of violence is punished more severely than conduct which is so accompanied. Suffice to mention that whilst harassment carries a minimum punishment of 6 months imprisonment and a minimum fine, *multa*, of €5,000, the offence under Article 251B of the Code carries a minimum term of three months imprisonment and a fine, *multa*, of not less than €4,658.75.

For the said reasons the Court, after having seen articles 17, 31, 214, 215, 216, 222(1)¹, 251B and 339(1)(e) of the Criminal Code, Chapter IX of the Laws of Malta, finds the accused guilty of the charges brought against him and condemns him to **two (2) years imprisonment** which, by application of Article 28A of the Criminal Code, are being suspended for 4 years from today. The accused is also being condemned to the payment of a **fine (*multa*) of €5,000**.

The Court explained to the defendant in ordinary language the significance of this judgement and of the consequences should he fail to observe the conditions imposed.

Moreover, in terms of article 382A of Chapter IX of the Laws of Malta, the Court is issuing a **restraining order** against the accused in favour of Shabna Sasidharan for a period of three (3) years.

¹ Which refers to Article 202(h)(i) of the Criminal Code

Orders a copy of this judgement be transmitted by the Registrar to the Minister for Justice.

Finally, the Court orders that the records of these proceedings be transmitted to the Attorney General within six working days.

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