

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

Magistrate Dr. Claire L. Stafrace Zammit B.A. LL.D.

The Police
(Inspector Jeffrey Scicluna)

vs

Petar Mladenovic

Case Number: 168/19

Today, the twenty fifth (25) of April, 2022

The Court;

**Having seen the charges brought against Petar Mladenovic holder
of residence permit card number 195944A:**

And accused him of having, on the 17th March 2019 between four o'clock and 5 o'clock in the morning (04:00hrs – 05.00hrs) in front of Phoenicia Hotel, Floriana and in these islands;

1. Without the intent to kill or to put the life of any person in manifest jeopardy, caused grievous harm to the body or health of Wayne Cassar, as certified by Dr. J. De Gray M.D. med. no. 3966 from Floriana Health Centre.
2. And also for having wilfully disturbed the public good order or the public peace.

The Court was also requested to provide for the safety of Wayne Cassar in accordance with Article 383 *et sequitur* of Chapter 9 of the Laws of Malta.

The Court was finally requested, in pronouncing judgment or in any subsequent order, sentence the aforementioned Petar Mladenovic to the payment, wholly or in part, of the costs incurred in connection with the employment in the proceedings of any

expert or referee in accordance with Article 533 of Chapter 9 of the Laws of Malta.

Having seen all documents presented;

Having heard all evidence and submissions of all parties;

Seen note of the Attorney General dated 29th September 2021 where the Articles of the Law under which guilt is sought are the following:-

- (a) Articles 214, 215, 218 of Chapter 9 of the Laws of Malta;
- (b) Article 338(dd) of Chapter 9 of the Laws of Malta;
- (c) Articles 17, 31, 382A, 383, 384, 385, 386, 412C, 412D and 532A, 532B, 533 of Chapter 9 of the Laws of Malta.

Having heard that the accused acquiesced that this Court tries these proceedings summarily after reading out such Articles of the Law;

Having Considered

From the testimony of Inspector Jeffrey Scicluna it resulted that he was informed with a fight between two foreign nationals namely the accused and Marco Vasoyevic and a taxi driver Wayne Cassar and his wife whereby the taxi driver allegedly suffered grievous injuries. He testifies that upon this information, he immediately proceeded to order the arrest of the accused and his friend Marco whereby upon interrogation the accused confirmed the fight but he stated that he acted upon self defence since it was the said Cassar who attacked them first.

Inspector Scicluna finally stated on counter-examination that no charges were initiated against the alleged victim or his wife.

The Court then heard the testimony of the aggrieved party Wayne Cassar whereby, after being given the caution according to law not to incriminate himself, he stated that he remembers that it was the 17 of March at around 4:00 a.m. when in front of the Phoenicia Hotel in Valletta when he was on the taxi stand when a taxi of the company *Taxify* arrived and parked in the parking reserved for the white taxis. The witness recalls that he asked the other taxi driver how come he was picking up passengers from the taxi stand and

this guy told him that the passengers were pre-booked. He also says that all of a sudden these two passengers came next to the window of his taxi and asked him if he had any problems and one of them started arguing with him and even doing gestures. He says that this guy also started insulting him and his wife and spitting on the car.

He says that upon seeing this he started cornering them into the other taxi where they were supposed to enter and says that all of a sudden one of them got a bag and hit him on his face. He also says that he went around the car about three times so that they don't hit him. He says as well that one of the two started chasing his wife who immediately went in the car and locked herself but this guy managed to smash the mirror of his taxi. He does not recall whom of the two hit his face and when asked if he recognised someone in court he didn't.

The wife of the aggrieved party Mandy Cassar testified whereby she reproduced the testimony of her husband and also did not manage to identify anyone who was in the alleged fight that day. She testifies that the alleged aggressors were three in number but one

of them ran away. She says that one of the aggressors damaged the bonnet of their car.

After being pressed by prosecution witness recognised the accused as one of the aggressors but says that he was not the one who punched her husband.

Another witness was Jesmond Scerri who was the taxi driver who was going to pick up the accused and his friend but only could say that he confirmed that there was a fight but could not confirm who started it and what actually caused the injuries on the face of Wayne Cassar.

Charles Pace took the witness stand and testified that he saw the fight ongoing and told them to stop. He identified the accused as one of the two and says that the other one involved in the fight was not present in the court room. He could not give any more details about the fight.

Marco Vasojevic then testified that himself and the accused were both finishing from their job at Charles Grech when they ordered a

taxi when they were next to the fountain in Valletta. When they arrived near the Phoenicia they entered the taxi they had booked. As soon as they entered the taxi the guy from the white taxi started arguing in Maltese with their driver and after twenty minutes he asked his driver why was it taking so long and asked so that they leave and immediately the lady in the white taxi started swearing at them. He says that he swore back at her. He recalls that at that point both her and the guy who was with her came next to them in the taxi and attacked him especially the lady. He then says that he wanted to defend himself so he pushed the guy and he fell to the ground but the lady continued to attack him. He says that he was hit in the eye and lost vision momentarily and was stressed out because he couldn't see and it was then that he bumped into the mirror of the white taxi. He confirmed that Petar punched no one.

The Court then heard the testimony of court appointed expert Dr. Adrian Agius who examined the aggrieved party Wayne Cassar and stated that he took long to examine him since Cassar did not attend most of the appointments that he had scheduled for him. His conclusions were that Cassar had a deviated septum and a

contused wound in his upper lip and these constitute a percentage of disability of six percent.

Finally heard evidence of the accused Petar Mladenovic who basically confirmed what he had stated in his statement *a tempo vergine* in front of the inspector.

Having Considered

That this Court from the outset states that these proceedings should not have been initiated in the first place or at least after the key witnesses were produced, the Attorney General could not possibly find justification for the continuation of the proceedings against the accused.

This being said, the witnesses produced by the prosecution were so contradictory between themselves that even this fact should have raised some doubts as to the veracity of the report made by the alleged victims. So much so that the key witnesses, namely the alleged victim Wayne Cassar and his wife Mandy Cassar, did not recognise the accused and when the wife recognised him after

being pressed by the prosecution, categorically denied that he was the one who punched her husband.

Therefore without entering into the merits of the accusations these proceedings have in no way been proven and it is a pity that the accused was constrained to undergo criminal proceedings against him considering that no tangible proof whatsoever was brought against him.

On the above basis the Court does not find the accused **Petar Mladenovic** guilty of the charges brought against him and consequently acquits him from all the charges.

Ft./Dr. Claire L. Stafrace Zammit B.A. LL.D.

Magistrate

Benamina Mifsud

Deputy Registrar