



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

MAGISTRATE NATASHA GALEA SCIBERRAS B.A., LL.D.

Case Number: 544/2023

**The Police
(Inspector Jonathan Ransley)**

vs

**Rene Bech Laursen
(Maltese Identity card number 64202(A))**

Today, 24th July 2023

The Court,

Having seen the charges brought against the accused **Rene Bech Laursen**, 46 years of age, born in Denmark on 13th March 1977, son of Soren and Haren nee` Megethen, residing at Catherine Flats, Flat 3, Pace Street, Sliema, holder of Identity card number 64202(A);

Accused with having on **12th July 2023, at various times, in Pace Street, Sliema:**

1. Caused **Carmelo Vella, Shijo Chinju, Sigal Leonid, Antonella Calleja, Kapetanova Marija** and **Andov Kriste** to fear that violence will be used against them or their property or against the person or property of any of their ascendants;
2. Wilfully committed any spoil, damage or injury to or upon any movable or immovable property when he caused damage to a mobile phone, which damage does not exceed the sum of twenty three euro and twenty nine cents (€23.29);

Accused also with having **on 12th July 2023** and **on 13th July 2023**, in Pace Street, Sliema:

3. Carried outside any premises, Catherine Flats, Flat 3, Pace Street, Sliema or appurtenance thereof, a knife or cutting or pointed instrument of any description without a license or permit from the Commissioner of Police;
4. In any manner not otherwise provided for in the Criminal Code, wilfully disturbed the public good order or the public peace;
5. In any public place or place open to the public, was found drunk and incapable of taking care of himself;
6. Without inflicting any wound or blow, threatened others with stones or other hard substances, or threw the same, or took up any other weapon against any person, namely, **Carmelo Vella, Shijo Chinju, Sigal Leonid, Antonella Calleja, Kapetanova Marija, Andov Kriste** and **Martin John Azzopardi**;
7. Attempted to use force against **Carmelo Vella, Shijo Chinju, Sigal Leonid, Antonella Calleja, Kapetanova Marija, Andov Kriste** and **Martin John Azzopardi** with intent to insult, annoy or hurt such persons or others, unless the fact constituted some other offence under any other provision of the Criminal Code;
8. Uttered insults or threats not otherwise provided for in the Criminal Code, or being provoked, carried his insult beyond the limit warranted by the provocation, and this against **Carmelo Vella, Shijo Chinju, Sigal Leonid, Antonella Calleja, Kapetanova Marija, Andov Kriste** and **Martin John Azzopardi**.

The Court was requested to provide for the security of **Carmelo Vella, Shijo Chinju, Sigal Leonid, Antonella Calleja, Kapetanova Marija, Andov Kriste** and **Martin John Azzopardi** by applying the provisions of Article 412C of Chapter 9 of the Laws of Malta.

The Court was also requested, in case of guilt, to apply the provisions of Article 382A and 383 of Chapter 9 of the Laws of Malta.

Having seen that upon his arraignment, during his examination in terms of law, the accused declared that he had no objection to his case being dealt with summarily;

Having seen the consent of the Attorney General in terms of Section 370(4) of the Criminal Code for this case to be dealt with summarily;

Having also heard the accused plead guilty to the charges brought against him, which plea he confirmed after the Court, in terms of Section 453(1) of the Criminal Code, explained to him the consequences thereof and gave him sufficient time to reconsider his plea and to retract it;

Having seen the records of the case and the documents exhibited;

Having heard the submissions of the Prosecution and the defence in respect of the punishment to be meted out.

Considers that:

Notwithstanding the guilty plea filed by the accused, the Court considers that from the records of the case, albeit minimal, and particularly from the Police report exhibited by the Prosecution as Doc. JR 3, it results that the incident in which **Carmelo Vella, Shijo Chinju, Sigal Leonid, Antonella Calleja, Kapetanova Marija** and **Andov Kriste** were involved, occurred on 30th May 2023 and not on 12th or 13th July 2023, in terms of the charges proffered against the accused. Indeed from the said report, it transpires that on that day following a report, the District Police went to Pace Street, and were informed by RIU Police Officers on site that from investigations carried out by the latter with residents in the said street, it resulted that the accused threatened and insulted passersby as he stood in the balcony of his residence, from where he hurled two wine bottles in the street. He was later seen exiting his apartment, making his way to a salon in the same street, whilst holding a knife, where no one was injured.

According to **Phillips, Zoe Charlotte Alexia**, who was then residing in the said street, she noted the accused in the balcony of his residence. He addressed her with the words '*I will fuck you up and cut your throat*'. She thus phoned the Police Station several times and requested assistance. The accused then hurled objects from the balcony and after some time, exited the building and entered a salon in the same street, at which point she again phoned the Police Station several times, informing them that he was holding a knife. **Carmelo Vella** stated that he had just ushered his sister to her residence, situated in the same block as that of the accused, at which point the accused started arguing with him and kicked his sister's door. As soon as Vella exited into the street, the accused threw two bottles of wine from the balcony of his residence in Vella's direction, without hitting him. **Sigal Leonid** stated that whilst in the same street, the accused tried to attack him, but did not hurt him.

Antonella Calleja, Marija Kapetanova and Andov Krste were inside *Phoenix Salon*, when the accused entered the said salon, holding what looked like a kitchen knife. **Francis Cutajar**, owner of Lady Di Pub, stated that he had asked the accused to leave since he was drunk and was annoying patrons. He gave the accused a bottle of wine to leave, at which point, the accused left the bar. It also results from the said report, that on the day, **Antonella Calleja** had mentioned to the Police that the screen of her mobile phone or the screen protector had been damaged by the accused, but she had not subsequently informed them whether the actual screen had suffered any damages.

From the Police report exhibited as Doc. JR 2, it then transpires that on 12th July 2023, at about 8.30 a.m., **Martin John Azzopardi** phoned Sliema Police station, reporting that in Pace Street, a male was throwing chairs and knives from his balcony towards the street, and at one point almost hit Mr. Azzopardi's wife. As soon as RIU Police Officers and PC 1493 went on site, they found that two LESA Officers, who were passing by Pace Street, had apprehended the accused.

It is therefore evident to the Court that despite the accused's guilty plea, the second charge proffered against him refers to acts which took place on 30th May 2023 and not on 12th July 2023. Thus, the accused cannot be found guilty of this charge.

Likewise, notwithstanding the accused's guilty plea, the act which constitutes the offence to which the third charge refers took place on 30th May 2023 and not on 12th or 13th July 2023, and therefore the accused must also be acquitted of this charge.

The Court considers that in respect of the events of 12th July 2023, the seventh charge brought against the accused cannot stand either. In as much as the accused threw chairs and knives from the balcony of his residence on that day, he was liable under Section 339(1)(b) of the Criminal Code, which refers to the act of "*threatening others with stones or other hard substances, or throws the same, or takes up any other weapon against any person*", without inflicting any wound or blow. In the Maltese version of this provision of law, the words "*other hard substances*" are translated as "*hwejjeġ oħra iebsin*", as are clearly chairs and knives. Thus, in so far as 12th July 2023, the accused is guilty of having committed the said contravention in terms of the sixth charge brought against him. As the Court will consider further on in this judgement, it is immaterial that the charge refers to persons (save for Martin John Azzopardi) who were not involved in the incident on that day. The material elements of this contravention clearly result, irrespective of the fact that the passive subjects at whom the acts were directed have been erroneously indicated by the Prosecution,

in so far as the commission of this contravention does not depend on the passive subjects against whom it is directed. In other words, the identity of the passive subject does not form part of the material elements of the offence, as long as it results that the act was indeed directed at a person – indeed “*any person*” in terms of law. This clearly results from the Police report marked as Doc. JR 2.

However, the seventh charge contemplates the contravention in terms of Section 339(1)(d) of the Criminal Code, which states that a person is guilty of a contravention against the person who “*attempts to use force against any person with intent to insult, annoy or hurt such person or others, unless the fact constitutes some other offence under any other provision of this Code*”. In so far as the facts that occurred on 12th July 2023 constitute a contravention under Section 339(1)(b) of the Criminal Code, the Court cannot find the accused guilty of the offence in the seventh charge. In the same manner, in so far as the accused has been charged with the contravention under Section 338(dd) of the Criminal Code, namely “*in any manner not otherwise provided for in this Code*” with having wilfully disturbed the public good order of the public peace, once the accused is being found guilty under Section 339(1)(b) of the Criminal Code, he cannot also be found guilty of this contravention under the fourth charge.

From the Police reports exhibited by the Prosecution, neither does it result that the accused committed the offence indicated in the eighth charge on 12th July 2023. Threats and insults were indeed uttered by the accused on 30th May 2023. Thus, the accused is not being found guilty of this charge, despite his guilty plea.

In respect of the fifth charge, in view of his guilty plea, and also in view of the fact that from the statement released by the accused, it transpires that he has an alcohol problem, and that he admitted to having drunk a lot and used cocaine during the previous two days¹, the accused is being found guilty of this charge brought against him.

As to the first charge brought against the accused, this contemplates the offence under Section 251(3) of the Criminal Code, which states as follows:

Whosoever shall cause another to fear that violence will be used against him or his property or against the person or property of any of his ascendants, descendants, brothers or sisters or any person mentioned in

¹ The accused released a statement on 13th July 2023.

article 222(1) shall be liable to the punishments prescribed in sub-article (1) decreased by one to two degrees

In the said charge, which refers to 12th July 2023, the Prosecution erroneously indicated the persons involved in the 30th May 2023 incident, as the persons against whom the offence was committed. There is no doubt that through his actions, on 12th July 2023, the accused caused Martin John Azzopardi and his wife to fear that violence would be used against them, when he hurled chairs and knives from the balcony and nearly hit the wife. In this respect the Court considers that the fact that Mr. Azzopardi and his wife were not indicated as the passive subjects of this offence and that others were instead mistakenly indicated by the Prosecution is irrelevant for the commission of the offence. Reference is made to the case decided by this Court, differently presided, on 30th November 2016 in the names **Il-Pulizija (Spettur Jason Francis Sultana) vs Charles Sciberras**, whereby the Court held as follows:

Il-proċedura li għandha quddiemha din il-Qorti hija waħda mibdija u mmexxija in bażi għal ċitazzjoni fejn ir-reqwiziti tagħha huma miżjuba fl-Artikolu 360(2) tal-Kodiċi Kriminali li jgħid : -

(2) Iċ-ċitazzjoni għandha ssemmi ċar il-persuna mharrka, u għandu jkun fiha, fil-qosor, il-fatti tal-akkuża, bil-partikularitajiet ta' żmien u ta' lok li jkunu jinħtiegu jew li jkunu jistgħu jingħataw.

Għandu jkun fiha wkoll it-twissija li, jekk il-persuna mharrka tonqos li tidher, hija tiġi arrestata b'mandat tal-qorti u mressqa quddiem l-istess qorti fil-jum li jkun imsemmi fil-mandat.

Kjarament ma hemm ebda obbligu legali li jitniżżel isem is-sugġett passiv tar-reat. Dan jikkontrasta dak miżjub fl-Artikolu 589(c) tal-Kodiċi Kriminali fejn meta si tratta tal-Att tal-Akkuża jobbliga lill-Avukat Ġenerali li jikteb l-istess Att b'mod li : -

(ċ) ifisser il-fatt li jikkostitwixxi r-reat, bil-partikularitajiet li jkunu jistgħu jingħataw dwar iż-żmien u l-lok li fihom ikun sar il-fatt u **dwar il-persuna li kontra tagħha r-reat ikun sar**, flimkien maċ-ċirkostanzi kollha li, skont il-liġi u fil-fehma tal-Avukat Ġenerali, jistgħu jkabbbru jew inaqqsu l-piena;²

Kif intqal aktar il-fuq pero din ir-regola msemija fl-Artikolu 589(c) mhix applikabbli għaċ-ċitazzjoni. Għalkemm iċ-ċitazzjoni tista' tkun il-baži ta'

² Emphasis of that Court.

proċedura li twassal għal ġuri u li tkun tista' wkoll tkun dik il-proċedura li fuqha l-Avukat Ġenerali jibbaża n-nota tar-rinviju għall-Ġudizzju tiegħu ai termini tal-Artikolu 370(3) tal-Kodiċi Kriminali, din għal massimu tassumi rwol simili, iżda mhux identiku għal dak ta' att t'akkuża.³

B'hekk l-inklużjoni tal-isem tas-suġġett passiv tar-reat f'att ta' ċitazzjoni ma hux meħtieġ mill-Liġi u għalhekk jekk mhux tassattivament meħtieġ mill-istess Liġi, xi differenza jew diskrepanza fir-rigward ta' dan ma għandhiex tinċidi fuq il-ħtija o meno tal-imputat - dment li din il-ħtija tkun pruvata lil hinn minn kull dubju dettat mir-raġuni fir-rigward tar-reat ipotizzat. Dan qiegħed jingħad għal dawk il-każijiet fejn l-identita personali tas-suġġett passiv ma tkunx tiffirma parti integrali mill-elementi tar-reat jew tikkostitwixxi xi kwalifika jew aggravanti tiegħu, fejn allura l-inklużjoni tas-suġġett passiv tar-reat u l-preċiżjoni dwaru issir jew tista' tkun determinanti.”

In view of the considerations of the Court above cited, considering further that in this case, the accused entered a guilty plea and that he did indeed cause third parties to fear that violence will be used against them on 12th July 2023, the Court finds him guilty of this charge.

Considers further that:

For the purpose of the punishment to be inflicted, the Court is taking into consideration the early guilty plea filed by the accused, the nature of the offences of which he is being found guilty, the circumstances of the case and that during final oral submissions, the Prosecution did not insist upon an effective prison term. Furthermore, the Court is also taking into account the fact that from the statement released by the accused, it transpires that he has an alcohol and drug problem. The Court also notes that in his statement the accused states that he has been in Malta for fourteen years. Yet his criminal record merely shows that in November 2014, he was found guilty of the contravention under Section 338(ff) of the Criminal Code, namely that of having been found drunk and incapable of taking care of himself in a public place or a place open to the public.

³ Here the Court stated that: “*Iċ-ċitazzjoni mhix prova fiha nnifisha. Dan japplika wkoll għall-att t'akkuża. Huwa prinċipju legali assodat li l-att tal-akkuża innifsu ma jikkostitwix prova tal-kontenut tiegħu. Anzi l-ġurati għandhom dik il-liberta' (kwalifikata) li biex jaslu għall-verdett tagħhom jistgħu jiddipartixxu minn ċerti dettalji li jkunu inklużi fl-att tal-akkuża u li jistgħu ikunu wkoll żbaljati; u jekk il-provi prodotti juru li l-akkużat ikun wettaq ir-reat/i addebitati lili skont kif imsemmija fl-att tal-akkuża għajr hlief għal xi dettalji skorretti, il-ġurati għandhom jistrieħu fuq il-provi li jkunu prodotti lilhom, anke jekk ikun hemm xi diskrepanzi ta' fatti jew ċirkostanzi bejn dak miktub fl-att tal-akkuża u dak pruvat mix-xieħda – dment naturalment li dawn il-fatti ma jkunux determinanti għall-eżistenza u integrità tar-reat innifsu jew elementi tiegħu jew xi aggravju jew kwalifika tiegħu.”*

In view of the above, the Court deems that the accused should be provided with the opportunity to rid himself of his alcohol and drug problem and is thus placing him under a Probation Order, in order that he may be provided with the professional guidance and assistance that he clearly requires.

Conclusion

For the above reasons, the Court after having seen Sections 251(3), 338(ff) and 339(1)(b) of the Criminal Code, finds the accused **Rene Bech Laursen** not guilty of the second, third, fourth, seventh and eighth charges brought against him and acquits him thereof, and finds him guilty of the first, fifth and sixth charges, but in view of the considerations above made and by application of Section 7 of Chapter 446 of the Laws of Malta, places him under a Probation Order for a period of two (2) years from the date of this judgement, subject to the conditions indicated in the said Order, which Order shall form an integral part of this judgement.

The Court explained to the person sentenced, in clear and simple terms, the consequences of this judgement, should he fail to abide by the conditions of the Probation Order or should he commit any other offence within the operative period of the said Order.

The Court orders that a copy of this judgement is served upon the Director of Probation and Parole.

In terms of Section 383 of the Criminal Code, in order to provide for the safety of Martin John Azzopardi and his wife, it is binding the person sentenced to enter into his own recognizance in the sum of seven hundred euro (€700), which recognizance shall be valid for a period of six (6) months from today.

Natasha Galea Sciberras
Magistrate

Oriana Deguara
Deputy Registrar