Qorti tal-Magistrati (Malta)

Bhala Qorti ta' Gudikatura Kriminali

Magistrat Dr. Yana Micallef Stafrace LL.D.

Il-Pulziija

(Spettur Ritienne Gauci)

Vs

Josloann Cassar (K.I. 442693M)

Kawza tad-Distrett tan-Naxxar

Illum 28 ta' Settembru 2023

Il-Qorti

Rat l-imputazzjonijiet dedotti kontra **Josloann Cassar** 28 sena bint Anthony Brignone u Antonia nee' Borg, mwielda l-Pieta' fis-26/09/1993 u resident gewwa 140, Flat 3, Dawret ix-Xatt, Xghajra ID: 442693 M talli nhar il-15 ta' Awwissu 2021 f' diversi hinijiet matul il-lejl bejn 21:00 hrs u 22:00 hrs ezattament fi Triq il-Blat l-Abjad, Bahar ic-Caghaq vicin Tony's Kiosk.

1) Volontarjament hassart, ghamilt hsara jew gharraqt hwejjeg haddiehor u cioe' ghamilt hsara fuq vettura ta' ghamla Mercedes numru tar-registrazzjoni IRA-888 ghad-dannu ta' Irina Aleksandrovna Arpa Lapko, liema hsara tammonta ghal € 1859.51c.

2) Aktar talli fl-istess data, hin, lok u cirkostanzi hebbejt ghal persuna ta' Irina Aleksandrovna Arpa Lapko u kkagunajtilha feriti ta' natura hafifa skond ma certifikat Dr Agnes Portelli MD Reg. 2863 ta' Sptar Mater Dei.

3) Aktar talli fl-istess data, hin, lok u cirkostanzi bl-imgieba tieghek ikkagunajt lil Irina Aleksandrovna Arpa Lapko u lit-tifla taghha Valentina Arpa biza li ser tintuza vjolenza kontra taghhom jew kontra l-propjeta' taghhom jew kontra l-persuna jew il-propjeta' ta' xi hadd mill-axxendenti, dixxendenti, ahwa jew familjari ohra taghhom.

4) Aktar talli fl-istess data, hin, lok u cirkostanzi gibt ruhek b' tali mod li tajt fastidju lil Irina Aleksandrovna Arpa Lapko.

5) Aktar talli fl-istess data, hin, lok u cirkostanzi ghamilt lil Irina Aleksandrovna Arpa Lapko ingurji u / jew theddid mhux imsemmijin band' ohra f' dan il-Kodici jew jekk kont ipprovokat ingurjajtu b' mod li hrigt barra mil-limiti tal-provokazzjoni.

6) U aktar talli fl-istess data, hin, lok u cirkostanzi volontarjament ksirt il-paci pubblika jew il-bon ordni b' ghajjat u / jew glied.

Il-Qorti giet mitluba sabiex barra milli tapplika l-piena skond il-ligi, tapplika wkoll l-Artikoli 382A, 383, 384 u 385 tal-Kap. 9 ghas-sigurta’ ta’ Irina Aleksandrovna Arpa Lapko kif ukoll ghal familjari taghha.

Il-Qorti giet mitluba li tohrog ordni ta’ protezzjoni skond l-Artikolu 412C tal-Kodici Kriminali kemm waqt il-mori tal-kawza kif ukoll f’ kaz ta’ htija ma’ kull piena li l-Qorti jihdrilha xierqa.

Rat l-affidavit ta’ PS 1026 B Gauci, semghet ix-xhieda ta’ Irina Arpa Lapko bil-lingwa Ingliza li pprezentat nota Dok A, certifikat mediku Dok B, rapport Dok C, certifkat Dok D, medical certificates Dok E, F, u G fis-seduta tal-12 ta’ April, 2022 u fis-seduta tal-7 ta’ Marzu, 2023 fejn ezebiet Dok IAL 1 sa 10; ta’ Andrea Bondin fis-seduta tal-12 ta’ April 2022; rat l-affidavit ta’ Dott Agnes Portelli ezebit fis-seduta tat-12 ta’ April 2022; semghet ix-xhieda ta’ PC 617 Christian Mark Ferries li ezebixxa CCTV Dok CMF u inghatat kopja lil partijiet; ta’ Dr Olha Attard fis-seduta tal-7 ta’ Marzu, 2023; rat l-affidavit ta’ Stephen Cachia; semghet ix-xhiedha tal-imputata Josloann Cassar fis-seduta tal-7 ta’ Marzu, 2023

Rat li fis-seduta tal-16 ta’ Novembru, 2022 l-partijiet qablu li jintwera CCTV ezebit minn PC Christian Mark Ferries seduta stante.

Rat li l-prosekuzzjoni ghalqet il-provi taghha fis-seduta tas-7 ta’ Marzu, 2023;

Rat ix-xhieda tal-imputata.

Semghet it-trattazzjoni tad-difensuri tal-partijiet.

Rat l-artikoli 28(B)(1) 325(1)(b), 221(1), 251B, 251A(a)(1), 339(1)(e), 338 (dd), 382A, 383, 384, u 385 u 412C tal-Kap. 9 tal-Ligijiet ta' Malta.

Rat ix-xhieda, id-dokumenti u l-atti kollha tal-kaz.

Ikkunsidrat

L-incident li sehh fit-15 ta' Awwissu, 2021 matul il-lejl bejn 21:00 hrs u 22:00 hrs fi Triq il-Blat l-Abjad, Bahar ic-Caghaq vicin Tony's Kiosk fil-car park tal-akkwati. L-imputata Josloann Cassar kienet qed tibblokka l-karozza tal-*parte civile* u l-alterazzjoni eskalat.

Ikkunsidrat

<u>Provi tal-prosekuzzjoni</u>

PS 1026 B Gauci xehedet bil-procedura tal-affidavit li fil-15 ta' Awwissu, 2021 ghal habta tad-2130hrs giet infurmata li kien hemm argument bejn xi nies hdejn Tony's Kiosk Bar, Bahar ic-Caghaq fi Triq il-Blat l-Abjad. Meta marret fuq il-post tkellmet ma Arpa Lapko Irina Aleksandrovna li qalet li bejn 2100hrs u 2200 hrs kienet ma habibtha gewwa restaurant fl akwata u meta kienu ser jitlqu sabu vettura Kia Mentor IBF 119 timblukahha u li offendieta, kagunatila griehi fuq il-persuna taghha u hsara fil-vettura taghha. Wara li staqsiet fil-madwar irrizulta li persuna femminili li wara giet identifikata mill-pulziija bhala Cassar Josloann. Minn aktar indagni l-pulizija gabret filmat tal-akkadut.

Meta Cassar Josolann giet mitkellma mil-pulzija hija qalet li l-mara barranija insulentata bil-malti u hi rispondietha lura. Hija stqarret li li giet pprovokata.

Affidavit ta' tat-Tabiba Dr Agnes Portelli fejn ikkonfermat hekk

*"Li ezaminajt lil **Irina Aleksandrovna Arpa Lapko**, bin-numru ta' identita' 322011 L, fis-16 ta' Awissu, 2021, fl-10:30 fid-dipartiment ta' l-Emergenza ta' l-Isptar Mater Dei.*

Il-pazjent kien qed isofri minn:

1. *Ugiegh fuq l-ghadam tal-wicc kif ukoll*
2. *Tbengil fuq dirghaja tax-xellug fuq in-naha ta' quddiem, kif ukoll fuq in-naha tal-lemin fuq in-naha ta' wara.*
3. *Ugiegh fuq in-naha t' isfel fuq is-swaba ta' id il-leminija.*

In-natura ta' dawn il-girehi hija hafifa salv kumplikazzjonijiet."

Irina Arpa Lapko xehedet fis-seduta tal-12 ta' April, 2022 bil-lingwa Ingliza. Fuq l-incident xehedet li dak in-nhar, il-15 ta' Awwissu, 2021 kienet ma habiba taghha u mat-tfal taghhom u wara li hargu minn restaurant gewwa Bahar ic-Caghaq ghal habta tal-ghaxra ta' fil-ghaxija (10:00 pm) marru ghal karozza li kienet ipparkjata regolarment gewwa car park pubbliku. Il-vettura tax-xhud hija Mercedez Benz C Class bin-numru ta' registrazzjoni IRA 888 Ma setghatx tohrog ghaliex il-karozza kienet ibblukkata minn karozza ohra li kienet ipparkjata b' mod parallel u ghalqieha kompletament. Hi daqqet il-horn ghal xi hmistax (15) il-minuta meta giet mara li qed taghraf bhala l-imputata. Tixhed.

“Wit: she came she had another two women with her and basically I saw her before she was next to the hotdog kiosk stand and she saw me pressing the horn and she took her time about 15 minutes I was waiting and she came up and she started immediately like sort of aggressively with F words why I am pressing the horm.”

“Wit: Well I mean she said why the fuck I’ m pressing the horn, I said because you blocked my car and I need to go home and the kids I have kids one of them 3 years old my younger daughter and the second child about seven years old the Doctor’s daughter.”

. . .omissis . . .

“ . . .so what happened when I thought she has to move the car because I have to go and she said why I’ m pressing the horn because you blocked me and you are breaking the law you have to move and she said you found parking and I’ m not I said but you shouldn’t be my problem because you are the one whose breaking the law and the meantime she start becoming agressive because also the main thing she saw me a foreigner and the main she with her leg she bumped my car.

Court:She kicked your car?

Wit: yeah and I said go away from my car and there was people watching there was a lot of people watching and I said I’ m going in the car and if you don’t move I call the police and she start screaming words like you.

Adv: Tell the court the exact words she told you.

Wit: you are a fucking Russian prostitute you come her you fuck our men and then you try to say something like you know I was shocked my friend Olga she was in the car in the meantime I was very shy because the people were watching and children were in the car like I had a state of shock."

.

Adv.: Apart from the shouting when you entered the car?

Wit: My car I locked the door I put on the engine and I said get out of the car now if you don't' move I will reverse on you and you will be your fault because you' re blocking me in the meantime there were the 2 women who were with her they tried to pull her away because she was screaming in the meantime shaking my car on the tyre like this and I couldn't call the police straight there because I was grabbing my phone my hands were shaking and I realsied by battery fell off I didn't had battery on the phone Olga my friend of mine she was in a state of shock completely she was starring like this her daughter start,

Adv: And what was she doing to the car and to you who were in the car?

Wit: She was threatening me she was calling me names she was calling me Russian prostitute she was threatening me your family as Leo the car something like that and she came after me.

Adv: Did you sustain any injuries?

Wit: Then what happened her friends that woman who as with her they put her and the car she moved the car she went into her car.

Court: Who's she?

Wit: Josoloann and she moved the car I tried to get out I managed to come out from the parking space just revered all of a sudden she blocks me second time reversed like this and she start spitting to us I didn't have glass on it was open my window she starts spitting in my face and it was COVID time were talking everybody was supposed to be with the mask she start spitting in my face in the meantime she was already screaming of the car the only thing I was telling her get away from me I have children in the car I was scared for the children as it was the second attempt when she was like blocked me with reverse and that time they start shooting the video the people because that's from that moment on video came Tik Tok in the following 2 days the whole Malta saw that video that I felt really more depressed because even I had to go to Supermarket the shop or wherever I park my car people looking at me."

Ix-xhud tghid li l-imputat bezqitilha f' wiccha, l-imputat mexxiet il-karozza u x-xhud bdiet hierga l-barra minn Bahar ic-Caghaq, waqt li kienet qed issuq il-habiba taghha li kienet passigiera fil-karozza bdiet iccempel il-pulizija. Ix-xhud tghid

"I thought she's leaving she left my friend was in the meantime she was calling the police because you know everybody's watching and already caos and all of a sudden I didn't realise because I was slowly try to reverse

the car she ran out of the car so basically she left again she stopped the car she ran to the hill and she started hitting my face theough the glass physically.

Court: one moment how can she hit you through the glass?

Wit: through the window the window was open, yes the window I couldn't put up the window because I was afraid if I my car is automatic I was afraid that if I pass the button to to close the window basically it will close on her so in the meantime my children our children in the car were crying Olga in the meantime called the police she I had the report from Mater Dei because I had . .. .

So basically after 2 days first I went did the report of my injuries some bruising after 2 days my face I didn't know something got damaged my face got all swollen up and I have the pictures of it I had to go within the next 2weeks to the doctor."

Fuq id-danni fil-vettura tikkwantifika d-danni fil-karozza fl-ammont ta' elfejn ewro (€ 2000) u tezebixxi Surveyor's report GasanMamo damages Eur 1859 u 150 claim insurance.

Ix-xhud tixhed li t-tifla taghha kienet trawmattizata minhabba dan l-incident u haditha ghand psikologa.

F<u>is-seduta tas-7 ta' Marzu 2023</u> ix-xhud ezebit sett ta' ritratti tal-griehi li kellha mehudha minnha stess. Ir-ritratti hadithom dak in-nhar tal-incident u jumejn wara "when the swelling started to come up on my face."

Andrea Bondin, rapprezentanta ta' Gasan Mamo Insurance , xehedet fis-seduta tat-12 ta' April 2022. Rapprezentant ta'. Jikkonferma d-dokument ezebit u mmarkat Dok C li jikkonsisiti f' survey report. L-hsara skont is-survey report hija ta' € 1859.51.

PC 617 Christian Mark Ferries xehed fis-seduta tal-16 ta' Novembru, 2022. Jixhed li fis-16 ta' Awwissu, 2021 irceiva email minghand il-control room tal-pulizija li kien hemm video fuq Tik Tok qed jiccirkola ta' argument li sehh bejn zewg persuni. Dahal fuq il-profil ta' dan il-persuna li uplowdja il-video u preservah u minn hemm ghaddieh lil tad-distrett bil-filmat. Il-filmat gie ezebit u mmarkat Dok CMF.

Stephen Cachia, rapprezentant fid-Direttorat ghat-Trasport fuq l-Art fi Hdan l-Awtorita ghat-Transport f' Malta, xehed permezz ta' affidavit datat 30 ta' Jannar 2023 u ezebit mil-prosekuzzjoni fis-seduta tas- 7 ta' Marzu 2023. Jixhed li minn indagni li ghamel fir-records tal-Awtorita' irrizulta li l-vettura bin-numru ta' registrazzjoni IRA 888 tal-marka Mercedes Benz, fil-15 ta' Awwissu 2021 kienet irregistrata fuq Irina Aleksandrovna Arpa Lapko (I.D. 238447 A) u ilha hekk registrata mill-1 ta' Marzu 2018.

Dr Olha Attard xehedet fis-seduta tas-7 ta' Mejju, 2023 bil-lingwa Ingliza. Taghraf lil imputat u lil *parte civile*. Hija kienet passigiera fil-karozza tal-*parte civile*, Irina Arpa, meta gara l-incident fil-hmistax (15) ta' Awwissu tas-sena elfejn u wiehed u ghoxrin (2021). Tixhed.

> "Ms Arpa's car is a white Mercedes and it was blocked by another silver vehicle we were looking for the owner of the veivhle for quite a while we were hooding for about 10 minutes like we attracted a lot of attention but

no one was coming and then eventually the owner of the vehicle came and actually instead of apologizing and keeping us waiting for so long she was quite arrogant."

Ix-xhud taghraf lil imputata bhala s-sid tal-vettura li kienet qed tinblukahom. Meta waslet l-imputata bdiet tghajjat bil-Malti, ix-xhud fehemet x' inhi tghid ghaliex ilha tnax il-sena hawn Malta. L-imputata bdiet tuzaha 'swear words' u "and then she said like foreigners why don't you go to your country and Ms Arpa said I' m Maltese as well which triggered the further verbal insulting from this madam . . ."

Meta qalu lil imputata li ser jcemplu l-pulzija, l-imputata rvellat u fi kliem ix-xhud.

"after the mention the police this madam she totally lost it like she drove back with the same car clocking our door and we couldn't even open the door of the car the verbal insults carried on and at some point she started physically attacking Ms Arpa.

Adv. Explain exactly the incident relating to the physical attack please?

Wit: She was fisting her face and we had kids . . . . she was screaming non stop like aaaaahhhh and didn't know what to do to help my friend or to call the police it took me a few seconds to dial the police I was in such a shock and Ms Arpa had her smaller child who was with her and the child just froze in terror."

The children were at the back of the car.

Adv: Taking you back to the fisting accident could you kindly explain exactly what happened what did you do exactly?

Wit: So she came out of the car she was outside Ms Arpa's car the windows were down and she started grabbing buy ger hair and fisting.

Adv: And where was Ms Arpa at that time?

Wit: She was in the driver's seat she couldn't leave the car she was afraid to close the window not to damage madam's arms you know so she couldn't close it and I mean it took a few minutes because people were trying to intervene."

Mistoqsija fuq danni fuq il-vettura tirrispondi

"Wit: I think she also kicked the car when she hit the car her car's doors because they were next to each other."

<u>Provi difiza</u>

Josloann Cassar, l-imputata, xehdet fis-seduta tas-7 ta' Mejju 2023. Tixhed li dak li innhar tal-incident kienet Bahar ic-Caghaq bit-tfal ghal gelat. Tammetti li li bblokkat il-karozza ipparkjata pero' tichad li ghadda hin twil ghax il-karozza bdiet titawlilha ta' spiss. Tixhed li meta qalet lil mara ta' xaharha isfar [l-parte civile li qed taghra] li ser issuqilha din offendieta bil-Malti L-imputata tixhed li hi ghajrietha lura u bdew joffendu lil xulxin. Il-parte civile offendietha kemm bil-Malti kif ukoll bl-Ingliz.

Tixhed.

Xhud: Daqqa blingliz daqqa bil-malti imma meta bdiet tghidli bl-ingliz l-accent taghha meta bdeit tghidli . . . . niftakar li mbghad soqtilha hi saqet lura gejna hekk kif gejna bizwit xulxin tieqa ma tieqa gejna hekk bezqitli hija bezqitli baqtilha lura it-tifla tieghi harget idejha hekk mit-tieqa kif kont ser insuq dik il-mara ilwietilha idejha lit-tifla."

. .. omissis . . .

"Intlift to be honest ergajt dawwart rajt dalma inzilt ghaliha u iva kont vjolenti u tajtha xi daqqiet go wiccha pero' il-karozza fl-ebda hin qatt ma lqat fl-ebda hin."

Ikkunsidrat

<u>Fl-ewwel imputazzjoni</u> l-imputata giet akkuzata li volontarjament hassart, ghamilt hsara jew gharraqt hwejjeg haddiehor u cioe' ghamilt hsara fuq vettura ta' ghamla Mercedes numru tar-registrazzjoni IRA-888 ghad-dannu ta' Irina Aleksandrovna Arpa Lapko, liema hsara tammonta ghal € 1859.51c.

Il-Qorti wara li rat ix-xhieda tal-partijiet u d-dokumenti b' referenza partikolari ghal video ezebit in atti minn PC Christian Mark Ferries fis-seduta tal-16 ta' Novembru, 2022, CD immarkat Dok CMF fejn l-imputata tihder bl-aktar mod car tmur fuq il-karozza tal-parte civile fuq in-naha tal-bieba tas-sewwieq u wara li rat s-survey report datat 15 ta' Awwissu, 2021 ikkonfermat bil-gurament minn rapprezentant ta' Gasan Mamo **Andrea Bondin** fis-seduta tat-12 ta' April, 2022 fejn il-hsara riskontrata kienet fuq ir-right front door u ghalhekk kompatibbli mal-filmat Dok. CMF ezebit in atti u jirrizulta li din l-imputazzjoni giet ipprovata .

Ghal dak li jirrigwarda <u>t-tieni imputazzjoni</u> fejn l-imputata giet akkuzata talli talli fl-istess data, hin, lok u cirkostanzi hebbejt ghal persuna ta' Irina Aleksandrovna Arpa Lapko u kkagunajtilha feriti ta' natura hafifa skond ma certifikat Dr Agnes Portelli MD Reg. 2863 ta' Sptar Mater Dei.

Il-Qorti taghmel referenza ghax-xhieda tal-imputata Josloann Cassar tas-7 ta' Mejju 2023 fejn hi ammettiet li tat daqqa f' wicc l-parte civile meta xehedet

> "Intlift to be honest ergajt dawwart rajt dalma inzilt ghaliha u iva kont vjolenti u tajtha xi daqqiet go wiccha pero' il-karozza fl-ebda hin qatt ma lqat fl-ebda hin."

L-imputata fix-xhieda taghha tixhed li hija giet ipprovokata mill-*parte civile* ghaliex din offendieta u ukoll qalet li irwiet idejn it-tifla mandakollu ma tressqu ebda' provi fuq dan allavolja l-Qorti hija propensa temminha meta tghid li kien hemm xi tghajjir minn naha tal-parte civile li kienet ilha ddoqq il-horn biex tohrog mill-parking ghal madwar ghaxar minuti. Dan premess kif jirrizulta ukoll mill-video ezebit in atti l-imputata wara li telqet l-hemm daret lura bil-karozza taghha u aggrediet lil parte civile. Ghaldaqstant it-tieni imputazzjoni tirrizulta ipprovata.

F' dak li <u>jirrigwarda t-tielet imputazzjoni</u> fejn l-imputata giet akkuzata talli fl-istess data, hin, lok u cirkostanzi bl-imgieba tieghek ikkagunajt lil Irina Aleksandrovna Arpa Lapko u lit-tifla taghha Valentina Arpa biza li ser tintuza vjolenza kontra taghhom jew kontra l-propjeta' taghhom jew kontra l-persuna jew il-propjeta' ta' xi hadd mill-axxendenti, dixxendenti, ahwa jew familjari ohra taghhom. Din l-akkuza hija formulata skont l-artikolu 251B tal-Kodici Civili. Kif inghad fis-sentenza fl-ismijiet Fil-Qorti tal-Maġistrati (Malta) Bħala Qorti ta' Ġudikatura Kriminali Magistrat Dr. Donatella Frendo Dimech LL.D., Mag. Jur. (Int. Law)

Kumpilazzjoni Nru. 304/2018 fl-ismijiet Il-Pulizija vs Joelle Galea, deciza fit-12 ta' Marzu, 2020.

> "Mill-banda l-ohra jekk il-prosekuzzjoni kienet qed tipprospetta r-reat ravvizat bl-artiklu 251B tal-Kodici Kriminali dan kien jinnecesita` li tigi pruvata l- "imgieba" u cioe` "a course of conduct". Illi fis-sentenza fl-ismijiet Il-Pulizija vs Francis Xavier Micallef il-Qorti tal-Magistrati (Ghawdex) rriteniet is-segwenti [Qorti tal-Magistrati (Ghawdex) Bhala Qorti ta' Gudikatura Kriminali, Magistrat Dr Edwina Grima, [17.02.2011]. Paġe 24 of 30]
>
> "Illi l-imputat jinsab akkuzat ukoll bir-reat ta'l-hekk imsejjah "harassement" bil-vjolenza kif previst fl-artikolu 251B tal-Kapitolu 9. Illi f'sentenza moghtija mill-Qorti ta'l-Appell Kriminali fl-ismijiet il-Pulizija vs Raymond Parnis (per Prim'Imhallef Vincent DeGaetano 24/04/2009), il-Qorti tat definizzjoni ezawrjenti ta' dak li jikkostitwixxi il-harassement taht dina id-disposizzjoni tal-ligi. Il-Qorti ta'l-Appell fis-sentenza taghha fil-fatt tissottolinja l-fatt illi l-kelma "imgieba" fit-test tal-ligi timplika "a course of conduct" u mhux xi incident wiehed izolat."

L-incident mertu ta' dawn il-proceduri kien incident wiehed u izolat u ghalhekk ma jinkwadrax ruhu taht dan l-artikolu tal-ligi. Ghaldaqstant l-imputata qed tigi liberata minn din l-imputazzjoni.

F' dak li jirrigwarda r-raba imputazzjoni fejn l-imputata giet akkuzata talli fl-istess data, hin, lok u cirkostanzi gibt ruhek b' tali mod li tajt fastidju lil Irina Aleksandrovna Arpa Lapko taht l-artikolu 251A(1)(a) tal-Kap. 9 tal-Ligijiet ta' Malta.

Fis- sentenza Il-Pulizija vs Joseph Brincat [1]intqal illi:-

> "Illi l-qrati taghna miz-zmien tal-promulgazzjoni tar-reat tal-hekk ismejjah 'harassement' interpretaw id-disposizzjoni ta'l-artikolu 251A bhala dak ir-reat li irid isarraf f'imgieba persistenti u abitwali u li jista' jikkaguna allarm, biza, dwejjaq jew stress fuq il-vittma, dejjem tenut kont tar-retroxxena ta' kull kaz individwali. Dan ghaliex l-artikolu 251A jissanzjona "Kull tip ta' dan l-agir pero' hu kalkolat li johloq certa biza' f' dak li jkun b'mod li johloq sensazzjoni li qed tigi segwit u impoggi taht certa pressjoni inġusta" [Il-Pulizija vs Paul Attard – App. Krim 27/09/2007]"

l-incident li tieghu hija akkuzata l-imputata Joloann Cassar huwa incident wiehed u izolat u ghalhekk ma jinkwadrax ruhhu taht dan il-kap. Ghaldaqstant l- l-imputata qed tigi liberata minn din l-imputazzjoni.

F' dak li jirrigwarda l-hames imputazzjoni u cioe' li fl-istess data, hin, lok u cirkostanzi ghamilt lil Irina Aleksandrovna Arpa Lapko ingurji u / jew theddid mhux imsemmijin band' ohra f' dan il-Kodici jew jekk kont ipprovokat ingurjajtu b' mod li hrigt barra mil-limiti tal-provokazzjoni din il-Qorti ser tastjeni milli tiehu konjizzjoni ta' din l-akkuza peress li qed jigi kunsidrat li hija alternattiva ghat-tieni imputazzjoni.

F' dak li jirrigwarda s-sitt imputazzjoni u cioe' U aktar talli fl-istess data, hin, lok u cirkostanzi volontarjament ksirt il-paci pubblika jew il-bon ordni b' ghajjat u / jew glied qed jigi deciz li din l-imputazzjoni giet ipprovata b' mod partikolari permezz ta' l-video ezebit in att.

---

[1] Il-Pulizija vs Joseph Brincat, Qorti tal-Appell, 14 ta' Diċembru 2017 (Appell Nru 273/2017)

Decide

Ghal dawn ir-ragunijiet il-Qorti wara li rat l-artikoli 28B(1) 325(1)(b), 221(1), 251B, 251A(a)(1), 339(1)(e), 338 (dd), 382A, 383, 384, u 385 u 412C tal-Kap. 9 tal-Ligijiet ta' Malta u fil-waqt li qed tastjeni milli tiehu konjizzjoni tal-hames imputazzjoni stante li din alternattiva ghat- tieni (2) imputazzjoni u tilliberaha mit-tielet u r-raba imputazzjoni **qed issib lil imputata Josloann Cassar hatja tal-ewwel, it-tieni u s-sitt imputazzjoni** u qed tikkundannaha ghal piena karcerarja ta' sentejn (2) li ai termini tal-artikolu 28B(1)tal- Kap 9 tal-Ligijiet ta' Malta qed jigi sospiz ghal sena(1).

Il-Qorti qed tordna l-Hrug ta' Ordni tat-Trazzin ai termini tal-artikolu 382(A) tal- Kap 9 tal-Ligijiet ta' Malta fil-konfront tal- Imputata ghal zmien sena rigwardanti Irina Aleksandrovna Arpa Lako u l-familjari taghha.

DR. YANA MICALLEF STAFRACE LL.D.

MAGISTRAT

Doris Serpina Sciberras

Deputat Registratur