



COURT OF CRIMINAL APPEAL

Hon. Mr. Justice Dr. Neville Camilleri
B.A., M.A. (Fin. Serv.), LL.D., Dip. Trib. Eccles. Melit.

Appeal Number 336/2018

The Police

vs.

Eva Langridge Stastna

Today 16th. of November 2023

The Court,

Having seen the charge brought against the appellant **Eva Langridge Stastna**, holder of Identity Card Number 146996(A), charged in front of the Court of Magistrates (Malta) with having between the 25th. of September 2017 at around 23:30hrs and the 26th. of September 2017 at around 01:30hrs, at No. 157, Flat No. 2, Birkirkara Road, St. Julians:

1. without intent to kill or to put the life of any person in manifest jeopardy, caused grievous bodily harm on the person of Peter John Langridge.

The Court was requested, where it deemed it expedient, in order to provide for the safety of Peter John Langridge or for the keeping of the public peace, in addition to, or in lieu of the punishment applicable to the offence, require the offender to enter into her own recognizance in a sum of money to be fixed by the Court according to Articles 383 and 412C of Chapter 9 of the Laws of Malta.

Having seen the judgment delivered by the Court of Magistrates (Malta) as a Court of Criminal Judicature on the 17th. of July 2018 wherein the Court, after having seen Articles 17, 31, 214, 215, 216(1) and 222(1)(a) of Chapter 9 of the Laws of Malta, found the accused guilty of the charge brought against her and condemned her to a punishment of two (2) years imprisonment which by virtue of Article 28A of Chapter 9 of the Laws of Malta were suspended for four (4) years. In terms of Article 412D of Chapter 9 of the Laws of Malta, the Court subjected the accused to a Treatment Order for a period of two years, wherein she had to receive psychological assistance in order to address the violent outbursts she had shown herself to be prone to. In terms of Article 382A of Chapter 9 of the Laws of Malta, the Court issued a restraining order against the accused in favour of Peter Langridge for a period of three (3) years. The Court explained to the accused, in ordinary language, the consequences should she choose to commit another offence within the operative period of four (4) years and if she fails to abide by the Treatment Order issued.

Having seen the appeal filed by the appellant on the 27th. of July 2018 by which she requested this Court: *"[to vary] the judgment of the Court of Magistrates (Malta) as a Court of Criminal Judicature of the 17th. July 2018 from which she is appealing, by quashing and revoking the said judgment and instead declare the appellant as not guilty of the charge brought against her as being of a grievous nature and consequently acquit her from it."*

Having seen all the acts and documents.

Having seen that this appeal had been assigned to this Court as currently presided by the Hon. Chief Justice Mark Chetcuti on the 9th. of January 2023.

Having seen the updated conviction sheet of the appellant exhibited by the Prosecution as ordered by the Court.

Having heard, during the sitting of the 17th. of October 2023, the parties declare that this Court may proceed to deliver judgment today.

Considers

That this judgment deals with the appeal application filed by the appellant regarding the judgment delivered by the Court of Magistrates (Malta) as a Court of Criminal Judicature on the 17th. of July 2018.

That this Court will proceed with the considerations regarding the grievances mentioned by the appellant and considerations will be made first regarding the second grievance.

Considers

That in her second grievance the appellant submits that she was accused of grievous bodily harm but this charge had no evidence to back it. She says that the Ticket of Referral (Doc. "PL" - a fol. 21) refers to "*severe swelling and laceration of the scrotum with inflammation of the left testes*" while the Medical Report (Doc. "PL 1" - a fol. 23) refers to scratches or abrasions, laceration of the left scrotum, and scratches on either side of the face. She says that then the medical officer described the above as grievous. She states that Dr. Nicole Buhagiar testified that it was the urologist who had decided to remove the testicle and that at no instance did she confirm that the injuries were of a grievous nature. She argues that the results show that that there was no need to remove any of the testicles of the injured party and that hence the injuries sustained were not of a grievous nature.

That the appellant argues further that the Case Summary (Doc. "PL 2" - *a fol. 24 et seq.*) shows that initially there was "*left testicle swollen, covered in pus and out of scrotum*" together with: "*Multiple scratches varying in length on the face. Bruises and scratches on both upper limbs, scratches on hands and on both lower limbs*" and that after a few days "*the wound was clean*". She says that all other investigations including Chest X-Rays proved to be normal and that on the other hand, Consultant Mr. John Sciberras noted (*a fol. 44 et seq.*) the following: "*His scrotal skin was noted to be lacerated and there was marked swelling with the left testicle hanging out of the scrotum and it was covered with pus. In view of all this, which is fever, signs of infection, the open wound, he was consented for an urgent operation on the same day [...] to clean his wound.*" She quotes Mr. Sciberras as saying that the Preliminary Report indicated that the patient had lost his left testicle but eventually no testicular material was present in the histology report and that a clinical examination and an ultrasound confirmed that that the patient's left testicle was there. She says that Mr. Sciberras said that there was a scarring of the testicle. She also says that according to the injured party, when she attacked him, she did not use any object but pulled his testicles by her hands which had long fingernails. She argues that a mere penetration of the fingernails does not make an injury grievous and that after all Mr. Sciberras never described the nature of the injury that the injured party sustained in his private part as being grievous. She insists that the grievous nature of the injuries sustained by the injured party were not proven.

That this Court notes that the grievance under examination is about the examination of the evidence made by the Court of Magistrates. It ought to be noted that this Court has always followed the line that it does not disturb the discretion used by the First Court as long as the First Court has used its discretion reasonably and logically.

That the the first point to be decided is whether the appellant was responsible for the injuries suffered by her husband the injured party. The appellant testified in front of the First Court and from

her testimony one concludes that she was unaware of the injuries of her husband. When asked whether the physical pain and the physical injuries sustained by the injured party were a fiction of his imagination, the appellant replies (*a fol. 61*): “*I was not telling that but I don’t know what happened to my husband. I know that he was ten (10) days in hospital. I’ll think he will let me know. I had ten (10) days exactly to ask what happened.*” This Court finds it very difficult to believe this version of the events and has no doubt that the account given by the injured party is to be relied on. There should be no doubt that the appellant was responsible for the injuries.

That it ought to be decided whether the injuries were grievous or slight. The Attorney General (*a fol. 51*) mentions, amongst others, Articles 214, 215 and 218 of Chapter 9 of the Laws of Malta. As to type of bodily harm, this Court notes that in the judgment delivered on the 30th. of July 2004 in the names **The Police vs. Joseph Azzopardi** (Number 193/2003), this Court held that:

“Il-kwistjoni ta’ jekk offiża hix waħda ħafifa u ta’ importanza żgħira, ħafifa, gravi jew gravissima hi waħda ta’ fatt u għalhekk rimessa għall-Ġudikant tal-fatt (fil-każ ta’ guri, għalhekk, rimessa f’idejn il-ġurati; fil-każ odjern rimessa f’idejn il-Ġudikant ta’ l-ewwel grad – il-Maġistrat – u issa f’idejn l-Imħallef sedenti). Ma hix, għalhekk, kwistjoni, li tiddependi neċessarjament jew esklussivament fuq “opinjoni medika”. It-tabib jew tobba jispjegaw x’irriskontraw bħala fatt; u, jekk il-Qorti tippermettilhom, jistgħu joffru l-opinjoni tagħhom dwar, fost affarijiet oħra, kif setgħet giet ikkaġunata dik l-offiża, jew ma’ xhiex huma kompatibbli s-sintomi li jkunu ġew klinikament riskontrati. Ikun jispetta mbagħad għall-Ġudikant tal-fatt li, fid-dawl mhux biss ta’ dak li jkun xehed it-tabib iżda fid-dawl tal-provi kollha, jiddetermina n-natura ta’ l-offiża.”

That in this case the first impressions were that this is a serious case and there was also the fear of a loss of the left testicle. That it results that a decision was taken for an immediate surgical

intervention. The testicle was definitely hanging out of the scrotum when the injured party was examined and a serious infection was imminent. However, the Consultant explained that in the end the patient had not lost his left testicle. This Court considers that the appellant was responsible of grievous bodily harm according to Article 216(1)(a)(iii) of Chapter 9 of the Laws of Malta which states the following:

“A bodily harm is deemed to be grievous and is punishable with imprisonment for a term from one year to seven years [as amended in 2018 because at the time of the offence the punishment was from three months to three years imprisonment) –

(a) if it can give rise to danger of –

[...]

(iii) any permanent defect in any part of the physical structure of the body.”

That there is no doubt that the facts reveal that there was this danger. Article 216 of Chapter 9 of the Laws of Malta is comprised under Article 218 of Chapter 9 of the Laws of Malta, which is one of the Articles mentioned by the Attorney General. Hence the First Court was correct in finding the appellant guilty of the charge under Article 216 of Chapter 9 of the Laws of Malta (as results from the appealed judgment) and due to the above reasons the second grievance is being rejected.

Considers

That in the first grievance the appellant laments that the Magistrate presiding the First Court was biased against her and was very sympathetic towards the injured party. She says that at a very early stage in the proceedings, while the husband was testifying, the Magistrate intervened various times and at one point she said that: *“Of course, the Court will be issuing a Protection*

Order in your favour.” She says further that while she was testifying, the Magistrate acted more as a Prosecutor than as an adjudicator. She says that the Magistrate asked her thirty eight (38) times while the Prosecuting Officer did not ask a single question. She says that the questions tended to deviate from the facts and were intended to corner her and she describes the last two and a half pages of her testimony (*a fol. 63 to 65*) as “*a deliberate bombardment by the Court*”.

That this Court has taken cognizance of the acts of the proceedings and notes that there is nothing to censor in the way the Magistrate presiding over the First Court conducted the proceedings. There is no harm in informing the witness that an order is going to be issued because such orders may even be issued immediately. As to the questions put forth by the First Court to the appellant, this Court notes that First Court was trying to establish the truth. It ought to be noted that the appellant exercised her right to testify but it became quite clear that she was not saying the truth.

That this Court notes that it is ultimately the duty of the Court to discover what has really happened. Hence considering all that has been noted, the first grievance is being rejected.

Considers

That the third grievance is that the sentence of the First Court is too severe. The appellant says that she has a clean conduct sheet and that one does not condemn a first time offender to two years imprisonment suspended for four years. She argues that the First Court did not consider the role played by the injured party during the argument.

That as regards this grievance, this Court makes reference to the judgment delivered on the 20th. of December 2022 in the names **II-Pulizija vs. Wajdi Lazhir Benhamed** (Number 386/2022) where this Court held that:

“10. Issa, għal dak li jirrigwarda appelli minn piena, huwa paċifiku li sabiex Qorti tal-Appell tibdel il-piena li tkun erogata l-ewwel Qorti, irid jirriżultalha li tali piena tkun żbaljata fil-prinċipju jew manifestament eċċessiva. [...]

11. Mill-banda l-oħra din il-Qorti trid tagħmel l-*evalwazzjoni* tagħha dwar jekk il-Qorti tal-Maġistrati (Malta) applikatx piena li kienet manifestament eċċessiva meta wieħed jieħu kont ukoll tal-aspetti retributtivi u preventivi tas-sentenza emessa minnha.”

That, apart from what been quoted above, this Court notes that the law that has to be applied is the one prevailing at the time of the offence. As has already been noted above, the particular law was amended in 2018, that is, after the crime had been committed. Considering the facts of the case especially that the crime was committed by the wife on the husband and that Article 222(1)(a) of Chapter 9 of the Laws of Malta applies, this Court does not find any reason whatsoever to vary the punishment inflicted by the First Court. Hence even the third grievance is being rejected.

Decide

Consequently, for all the above-mentioned reasons, this Court rejects the appeal filed by the appellant and confirms the judgment delivered by the First Court in its entirety.

Finally, this Court has warned the appellant of the serious consequences which will follow if during the operational period of the suspended sentence she commits an offence punishable with imprisonment and if she fails to abide by the Treatment Order issued.

Dr. Neville Camilleri
Hon. Mr. Justice

Alexia Attard
Deputy Registrar