



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

MAGISTRATE DR. RACHEL MONTEBELLO LL.D.

Today, 7th March, 2024

**THE POLICE
(Inspector Colin Sheldon)
(Inspector Christian Cauchi)**

-Vs-

FARHAN GHOURI

The Court,

Having seen the charges brought against FRAHAN GHOURI, son of James Arzoo and Elizabeth nee' Gill born on the 2nd May 1984 in Pakistan, residing at number 15, 'Archbishop Gonzi Flats', Block C, Flat 15, Triq Mountbatten, Hamrun, holder of residence card number 0147119A, accused of having on the 9th February 2024 at around half past eight in the evening (20:30hrs) and/or in the preceding months, weeks, days and times at residence number 15, 'Archbishop Gonzi Flats', Block C, Flat 15, Triq Mountbatten Hamrun:-

1. Caused his wife Anila Ashi who is the mother of his two children to fear that violence will be used against her in her property or against the person or property of any of her ascendants, descendants, brothers or sisters or any person, when the offence was committed against his former or current spouse or partner, by a member of the family, or a person cohabiting with the victim or a person having abused his authority, when the offence, or related offences were committed repeatedly, when the offence was preceded or accompanied by violence and when the offence resulted in severe physical or psychological harm for the victim, and this in breach of *Article 251B, 251H(a)(b)(f)(h), 251HA, 222(1) and 202 of the Criminal Code, Chapter 9 of the Laws of Malta.*;

And more due to the fact that on the 09th February 2024 at around half past eight in evening (20:30hrs) and/or in the preceding times at residence number 15, ‘Archbishop Gonzi Flats’, Block C, Flat 15, Triq Mountbatten, Hamrun:

2. Attempted to use force against Anila Ashi 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 and this in breach of *Article 339(1)(d) of the Criminal Code, Chapter 9, of the Laws of Malta.*
3. Uttered insults or threatened not otherwise provided for in this Code, or if he was provoked, he carried his insult beyond the limit warranted by the provocation and this in breach of *Article 339(1)(e) of the Criminal Code, Chapter 9 of the Laws of Malta.*

The Court is humbly requested that in case of guilt issues a protection order until judgement against Farhan Ghouri for the benefit of Anila Ashi and her family u this in terms of Article 412C of the Criminal Code, Chapter 9 of the Laws of Malta.

The Court is humbly requested that in case of guilt, applies the provisions of Articles 382A and 383 of the Criminal Code, Chapter 9 of the Laws of Malta.

The court is kindly requested that in case of guilt, in pronouncing judgment or in any subsequent order, sentence the person convicted or the person convicted, to the payment, wholly or in part, to the registrar, of the costs incurred in connection with the employment in the proceedings of any expert or referee, including such experts or referee in terms of *article 533 of the Criminal Code, Chapter 9 of the laws of Malta*.

Having ordered that the proceedings are conducted in the English language after having heard the accused person declare that he does not understand the Maltese language but that he does speak and understand the English language;

Having seen the record of the proceedings;

Having heard the accused person plead guilty to the charges brought against him during the arraignment;

Having heard the accused person confirm his guilty plea even after having been afforded the time to reconsider their admission of guilt and to consult with his legal counsel;

Having heard the accused reconfirm his admission of guilt even after the Court explained to him in simple language, the gravity of the offences with which he was charged and the punishment contemplated by law in the event of a finding of guilt for that offence and also after the Court was satisfied that the accused understood the legal consequences of his admission of guilt.

Consequently, in view of this voluntary and unconditional admission of guilt, in the presence of his legal counsel, the Court has no alternative but to find the accused

guilty of all the charges brought against him and to proceed, as a Court of Criminal Judicature, to proceed to pass on the accused such sentence as would according to law be passed on an accused convicted of the offence.

Having heard the final submissions made by the Prosecution and the Defence Counsel in relation to the applicable punishment who agreed that in the circumstances the most appropriate sanction would be the application of the provisions of article 22 of Chapter 446.

For the purposes of inflicting punishment, the Court considered that the charges brought against the accused, that is the first charge regarding the crime under article 251B of the Criminal Code, which crime is further aggravated by different circumstances mentioned in article 251H of the Criminal Code, are serious charges, particularly since the crime in these aggravated circumstances is punishable by imprisonment for a maximum term of at least six years.

At the same time however, the Court notes that the accused co-operated thoroughly with the Police during their investigations, has a completely clean criminal conduct sheet and has already agreed to leave the Island voluntarily although, as submitted by the Prosecution, the accused is a prohibited immigrant and all arrangements have already been made in order to effect his immediate deportation from Malta. It also took account of the accused's early admission to the charges and the fact that the incident took place within the context of a difficult marital relationship.

In the circumstances the Court is of the opinion that having regard to the circumstances of the case it is inexpedient to inflict punishment and deems it fit to make an order conditionally discharging the offender.

For these reasons and after having seen Articles 17, 31, 202(h), 251B, 251H(a)(b)(f)(h), 251HA, 222(1), 339(1)(d) and 339(1)(e) of the Criminal Code, upon admission finds FARHAN GHOURI guilty as charged but upon application

of Article 22 of Chapter 446 of the Laws of Malta, conditionally discharges him for a period of three (3) years.

The Court explained to the offender in ordinary language that if he commits another offence during the period of conditional discharge, he will be liable to be sentenced for the original offence.

**DR. RACHEL MONTEBELLO
MAGISTRATE**