



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

**MAGISTRATE DR. NOEL BARTOLO
B.A., M.A. (Fin. Serv.), LL.D.**

Today 5th May, 2024

**The Police
(Inspector Christian Cauchi)**

vs

Johm Musa

The Court,

After having seen the charges brought against the accused: **John Musa, 26 years of age, born on the 27th November 1997 in Nema Kunku, Gambia, residing in 59, 'Torri tal-Avorju', Triq Sant' Elija, San Ġiljan of Maltese residence permit number 0372220A and holder of Gambian passport number PC70758**

Accused with having on between Friday 03rd May 2024 and Saturday 04th May 2024 at 59, Torri tal-Avorju', Triq Sant' Elija, San Giljan and/or in these Maltese islands:

1. Without a lawful order from the competent authorities, and saving the cases where the law authorizes private individuals to apprehend offenders, arrested, detained or confined his partner Mercy Kusiima against the will of the same, or provided a place for carrying out such arrest, detention or confinement aggravated by the fact that Mercy Kusiima who was arrested, detained or confined, was subjected to any bodily harm, or was threatened with death, and

when the crime was committed on the current or former spouse, civil union partner or cohabitant, and when the crime was committed on his partner Mercy Kusiima who was living in the same household as the offender or who had lived with the offender before the offence was committed and when the crime was committed on his partner Mercy Kusiima who is or was in a relationship with the offender whether the intention of marriage or not in terms of articles 86, 87(1)(c)(h), 202h(i)(v)(vi) of the Criminal Code, Chapter 9 of the Laws of Malta.

2. And moreover due to on Friday 03rd May 2024 at eleven in the evening (23:00HRS) and in the preceding times or afterwards at 59, 'Torri tal-Avorju', Triq Sant' Elija, San Giljan and in Triq Sant' Elija, San Ġiljan and/or in these Maltese islands caused his partner Mercy Kusiima to fear that violence will be used against her or her property of any of his ascendants, descendants, brothers or sisters aggravated by the fact that the offence was committed against the former or current spouse or partner, by a member of the family, a person having abused her or his authority, the offence was preceded or accompanied by violence and the offence was committed with the use or threat of a weapon in terms of article 251(3), 251H(a)(f)(g), 251HA, 222(1) and 202(h) of the Criminal Code, Chapter 9 of the Laws of Malta.

3. Used force against his partner Mercy Kusiima and inflicted on her slight injuries as per certified by Dr Med Rowena Zrinzo M.D with medical registration number 4632 of Mater Dei hospital aggravated by the fact since the crime was committed on the person of the current or former spouse, civil union or cohabitant, the crime was committed on his partner Mercy Kusiima living in the same household as the offender or who had lived with the offender before the offence was committed and the crime was committed on his partner Mercy Kusiima who is or was in a relationship with the offender whether with the intention of marriage or not, in terms of article 214, 215, 221(1)(a), 202(h)(i)(v)(vi) of the Criminal Code, Chapter 9 of laws of Malta.

4. And moreover due the afore mentioned date, times, location and under the same circumstances without intent to steal or to cause any wrongful damage, but only in the exercise of a pretended right, of his own authority, compelled Mercy Kusiima to pay a debt, or to fulfil any obligation whatsoever, or disturbed the possession of anything enjoyed by Mercy Kusiima, or demolished buildings, or diverted to take possessions of any water-course, or in any other manner unlawfully interfered with the property of Mercy Kusiima, in terms of Article 85(1) of the Criminal Code, Chapter 9 of the Laws of Malta.

5. And moreover due the afore mentioned date, times, location and under the same circumstances without inflicting any wound or blow, threatened Mercy Kusiima with stones or other hard substances, or threwed the same, or took up any other weapon against Mercy Kusiima in terms of Article 339(1)(b) of the Criminal Code, Chapter 9 of the laws of Malta.

6. And moreover due the afore mentioned date, times, location and under the same circumstances utterly insulted or threatened not otherwise provided for in this code, or if Johm Musa was provoked, same carried his insult beyond the limit warranted by the provocation in terms of Article 339(1)(e) of the Criminal Code, Chapter 9 of the laws of Malta.

The Court is humbly requested to provide security for Mercy Kusiima as the court sees fit and necessary and under all the conditions that deems appropriate, issues an order of protection against Johm Musa in terms of Article 412C, of Criminal Code, Chapter 9 of the Laws of Malta.

The Court is also being humbly requested that in the case of guilt , in addition to the punishment in accordance with the law, the Court is humbly requested to apply Articles 382, 383, 384, and 385 of the Criminal Code, Chapter 9 of the Laws of Malta.

The Court is also being humbly requested that in the case of guilt, in addition to the punishment in accordance with the law, orders the accused to pay the costs incurred in terms of Article 532B and/ or Article 533 of the Criminal Code, Chapter 9 of the Laws of Malta.

Having examined all the documents forming part of the proceedings.

Having seen the consent given by the Attorney General for this case to be dealt with summarily (Doc. "CC").

Having heard the accused inform the Court that he did not object to this case being dealt with summarily.

Having heard the accused plead guilty to the charges brought against him, and having heard him confirm his guilty plea after the Court warned him in the most solemn manner of the legal consequences of his guilty plea and after having given him sufficient time within which to reconsider and/or withdraw his guilty plea and consult again with his lawyer.

Considers

That, as a consequence of the accused's admission of the charges brought against him, the said charges brought against the accused have been sufficiently proven.

With regards to the punishment to be inflicted against the accused, the Court took into consideration various factors, including: the nature of the charges brought against the accused and the submissions of the defense and prosecution during today's sitting with respect to the punishment where they suggested the punishment of imprisonment the period of which is suspended in terms of law.

Decide:

Therefore, the Court, for the above reasons and after having seen and considered *inter alia* **Articles 86, 87(1)(c)(h), 202h(i)(v)(vi), 222(1), 251(3), 251H(a)(f)(g), 251HA, 339(1)(b) and 339(1)(e)** of Chapter 9 of the Laws of Malta, finds the accused **Johm Musa**, on his own admission, guilty of the charges brought against him and condemns him **to a period of twenty four (24) months imprisonment which in terms of Article 28A of Chapter 9 of the Laws of Malta shall be suspended for a period of three (3) years from today.**

Furthermore, by application of Article 382A of Chapter 9 of the Laws of Malta the Court is also issuing against Johm Musa a Restraining Order in relation to Mercy Kusiima which Order is subject to the conditions enlisted in the Order which is being issued concurrently with and attached to this judgement.

The Court explained to the guilty person in simple terms the consequences of this judgement.

In relation to the request of the Prosecution as contained in the charge sheet where the Court was requested to condemn the accused, in case of guilt, for the payment of costs in connection with the appointment of experts as contemplated in Article 533 of Chapter 9 of the Laws of Malta, the Court rejects such request since no evidence has been brought forward in this regard.

Finally, the Court orders that in terms of Article 392A of Chapter 9 of the Laws of Malta the Attorney General is given access to all the records of these

proceedings and to this judgment with the means and within the period of time stipulated by law.

Dr. Noel Bartolo
Magistrate

Caroline Perrett
Deputy Registrar