



MALTA

**COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE
MAGISTRATE DR. GABRIELLA VELLA B.A., LL.D.**

Case No. 540/2024

The Republic of Malta

Vs

Ziyad Rashid G Baghi

Today, 3rd September 2024

The Court,

Considered the charges brought against **Ziyad Rashid G Baghi**, twenty five (25) years of age, born on the 31st January 1999 in Libya, residing at 187, Penthouse 7, Naxxar Road, San Gwann, and holder of Identity Card Number 0118392A, of having on the 25th May 2024 at around eleven forty five in the evening and/or in the preceding hours in Saint Julian's and/or at any other place in these Islands:

1. Without the intent to kill or to put the life in manifest jeopardy, caused grievous bodily harm on the person of Mohamed Arshad Hamood Packeer, which bodily harm is considered grievous, as certified by Dr. Jessica Axiak, Med. Reg. No. 4648;
2. Also for having on the same date, time, place and circumstances, used force against Mohamed Arshad Hamood Packeer 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;
3. Also for having on the same date, time, place and circumstances, uttered insults or threats to Mohamed Arshad Hamood Packeer not otherwise provided for in this Code, or being provoked, carried his insults beyond the limit warranted by the provocation;

Considered the requests put forth by the Prosecution for the Court to: (i) issue a Protection Order in terms of Section 412C of Chapter 9 of the Laws of Malta during the proceedings, and in case of guilt in terms of Sections 383, 384 and 385 of Chapter 9 of the Laws of Malta, in favour of the alleged victim; and (ii) in case of guilt, in addition to the punishment in accordance to Law, orders Ziyad Rashid G Baghi to pay costs incurred in connection to the employment of any Experts, as provided in Sections 533(1) of Chapter 9 of the Laws of Malta;

Considered the documents submitted by the Prosecution marked Doc. "A" and Doc. "B" at folios 6 and 7 of the proceedings and Doc. "C" to Doc. "E" at folios 15 to 23 of the records of the proceedings;

Heard the Prosecution declare that the charge of voluntary grievous bodily harm being levelled at the accused is in terms of Section 216(1)(a)(iii) of Chapter 9 of the Laws of Malta;

Heard the accused plead guilty of the charges brought against him, which guilty plea was reiterated by him after the Court warned him in the most solemn manner of the legal consequences of his guilty plea and after giving him sufficient time within which to reconsider and withdraw such guilty plea;

Heard submissions by the Prosecution and Defence Counsel regarding punishment;

Considered all the records of the proceedings;

Considers:

The accused is being charged of having on the 25th May 2024 at around eleven forty five in the evening and/or in the preceding hours in Saint Julian's and/or at any other place in these Islands: (1) Without the intent to kill or to put the life in manifest jeopardy, caused grievous bodily harm on the person of Mohamed Arshad Hamood Packeer, which bodily harm is considered grievous, as certified by Dr. Jessica Axiak, Med. Reg. No. 4648; (2) Also for having on the same date, time, place and circumstances, used force against Mohamed Arshad Hamood Packeer 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; (3) Also for having on the same date, time, place and circumstances, uttered insults or threats to Mohamed Arshad Hamood Packeer not otherwise provided for in this Code, or being provoked, carried his insults beyond the limit warranted by the provocation.

The Prosecution declared that the charge of voluntary grievous bodily harm being levelled at the accused is in terms of Section 216(1)(a)(iii) of Chapter 9 of the Laws of Malta.

The accused pleaded guilty to the charges brought against him. In view of said admission of guilt, the Court is to find the accused guilty of the charges so brought against him.

For the purposes of punishment the Court took into account the gravity of the charges brought against the accused, in particular the first charge so brought against him, the fact that the second and third charges are absorbed in the first charge brought against the accused, and that the accused submitted a guilty plea at an early stage of the proceedings.

Therefore, after having seen and considered Sections 214, 215, 216(1)(a)(iii), 339(1)(d)(e) of Chapter 9 of the Laws of Malta, the Court is finding the accused, upon his own admission, guilty of the charges brought against him and condemns him to two (2) years imprisonment, however, since it deems that in this case there are sufficient reasons, namely the fact that the accused has submitted a guilty plea at an early stage of the proceedings, which warrant that the said term of imprisonment be suspended, in terms of Section 28A of Chapter 9 of the Laws of Malta suspends, the said term of two (2) years imprisonment hereby imposed on the accused, for a period of four (4) years from date of this judgment.

In terms of Section 28A(4) of Chapter 9 of the Laws of Malta, the Court explained to the accused in plain language his liability under Section 28B of Chapter 9 of the Laws of Malta if during the operational period of this suspended sentence he commits an offence punishable with imprisonment.

In terms of Section 382A of Chapter 9 of the Laws of Malta the Court is further issuing a Restraining Order against the accused with regard to Mohamed Arshad Hamood Packeer for a period of three (3) years from date of this judgement and this under the terms and conditions set out in a Decree issued today, which Decree is being attached to and forms an integral part of this judgement.

The Court explained to the accused in ordinary language that in terms of subsection (3) of Section 382A of Chapter 9 of the Laws of Malta, if without reasonable excuse he contravenes any prohibition or restriction imposed upon him by the Restraining Order issued against him today, he shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of seven thousand Euro (€7,000) or to imprisonment not exceeding two (2) years or to both such fine and imprisonment.

In view of the Restraining Order issued against the accused, the Court abstains from considering the request put forth by the Prosecution in terms of Section 383, 384 and 385 of Chapter 9 of the Laws of Malta.

The Court also abstains from considering the request by the Prosecution to condemn the accused to the payment of costs incurred in the employment of experts in terms of Section 533 of Chapter 9 of the Laws of Malta since in this particular case no experts were employed and/or engaged.

In terms of Section 392A(2) of Chapter 9 of the Laws of Malta, the Court orders that the Attorney General be granted access by electronic means to a scanned copy of the records of these proceedings, together with a scanned copy of this judgement and the Decree regarding the Restraining Order imposed on the accused, within six (6) working days.

MAGISTRATE

DEPUTY REGISTRAR