



**Qorti tal-Maġistrati (Malta)
Bhala Qorti ta' Ġudikatura Kriminali**

Maġistrat Dr. Donatella M. Frendo Dimech LL.D., Mag. Jur. (Int. Law)

Seduta Distrett San Ġiljan

Il-Pulizija

-vs-

Ndubisi Chukunyere, detentur tal-karta tal-identità nru. 272707L

Kaz. Nru. 833/23

Illum, 7 ta' Ottubru, 2024

Il-Qorti,

Rat l-imputazzjonijiet miġjuba fil-konfront tal-imputat **Ndubisi Chukunyere
u ċioe talli:**

**Nhar 17.09.2022 għall-ħabta ta' 04:40hrs gewwa Triq Elija Zammit, San Ġiljan
u f' dawn il-Gzejjer Maltin –**

- 1. Volontarjament qal kliem oxxen li jikkonsisti f' dagħa fil-pubbliku.**
- 2. Insulenta, hedded jew ingurja bi kliem jew b' mod iehor lil Dishan Darmanin u Melissa Maimour Mentor Diawara.**

3. Ghamel ingurji jew theddid mhux imsemmijin band' ohra fil-Kodiċi Kriminali jew, jekk kien ipprovokat, ingurja b'mod li hareġ il-barra mill-limiti tal-provokazzjoni,

4. Hebb għal Dishan Darmanin u ikkagunалу offiża ta' natura hafifa skont kif iċċertifikat minn Dr. Clive Gauci, Med no.3485.

Il-Qorti hija mitluba sabiex f'każ ta' htija tipprovdi għas-sigurtà ta' Dishan Darmanin u Melissa Maimour Mentor Diawara skont l-Artikolu 383 tal-Kodiċi Kriminali.

Illi din il-kawża giet assenjata lil din il-Qorti kif preseduta fl-"Assenjazzjonijiet ta' Kawża" moghti mis-S.T.O. Prim Imħallef Mark Chetcuti fit-2 ta' Frar, 2024;

Illi l-ewwel seduta minn din il-Qorti kif preseduta saret fid-9 ta' Lulju, 2024;

Rat l-atti w id-dokumenti kollha;

Semgħet ix-xhieda;

Semgħet it-trattazzjoni finali tal-partijiet;

Ikkunsidrat,

Illi **Matthew Ikeehukwu Nwaokenye** xehed li kemm hu kif ukoll l-imputat ġew aggrediti meta l-imputat kien qal biss "hello" lil tfajla:

The witness: I say respectfully we stay outside and we saw this lady,

The Court: Outside the Gentlemen's Club, yes,

The witness: We saw this lady walk past and my friend say hello to her. And the next thing the men there they ... on him, say, "Why are you talking to her?!" The next thing they start hitting him, I try to separate them, one of them came behind me and grabbed my hand.

The Court: And before you said that it was Dishan who was aggressive first towards Chukunyere.

The witness: Chukunyere.

The Court: And then you went to separate them,

The witness: I was going to separate them, but someone came behind me,

The Court: someone came behind you at that point and grabbed you from your neck.

The witness: And grabbed me from my neck.

The Court: All right. And you are absolutely sure that all Mr Chukunyere said was, "Hello!"

The witness: Was "Hello!" ... just said "Hello!" and that is it.

Pros: *At what time was this?*
The witness: *I think it should be around, if I am not mistaken, something to five or after four. Because I remember then the clock, the business close by four, we were outside...*
Pros: *And would I be correct to say that it was Mr Chukunyere who first hit one of the gentlemen here?*
The witness: *No, no, no, no! He did not hit any of them.*
Pros: *You confirm that under oath.*
The witness: *He did not hit any of them."*

Melissa Maimour Mentor Diawara xehdet kif fil-lejl in kwistjoni, hi kienet mal-familja ta' Dishan Darmanin gewwa Paceville u kif ghaddiet minn quddiem l-imputat:

The witness: *I passed, he was looking at me like with an insistent look at first...*
The Court: *With an insistent look.*
The witness: *Yes. And then he made a comment about my posterior...something about my and everything... About grab my ass..... I then when I ask him like "What did you say!" and everything, he like blew me a kiss and... He blew me a kiss. He was trying to find like provocation, I do not know what he was trying to do, but I was with my boyfriend, so...*
The Court: *Of course. And then?*
The witness: *So then it is how it starts because I went to Dishan to tell him what happened,[Dishan] went to spoke to him and the guy starts swearing and getting aggressive and that is how it started.*
The Court: *Who started the fight, so?*
The witness: *I do not remember but I know that –*
The Court: *No, but you said... who was talking aggressive?*
The witness: *The guy.*
The Court: *The guy, when Dishan went on to him, the guy was aggressive?*
The witness: *Yes, and he was swearing then in Maltese*
The Court: *Sorry?*
The witness: *He was swearing even in Maltese, you know, he is a black guy like me and he was, kind of provocation.*
The Court: *He was swearing in Maltese.*
The witness: *Yes.*
The Court: *What was he saying?*
The witness: *I do not remember.*
The Court: *You do not remember, all right. Ok. Any questions?*
Pros: *So Melissa, do you remember who hit who first, who was the one to hit someone first?*
The witness: *I do not remember but for me the guy start swearing and when they try to approach him he made the first... that is how I saw the things. I do not know exactly.*
The Court: *So when Dishan tried to approach him, what did you say?*

The witness: When Dishan tried to approach him, they were talking, when the guy start to getting aggressive, Dishan tried to approach him and the guy hit him. I do not know which one hit who first, I cannot be... No, I mean swearing maybe, but I do not speak, no I do not speak Maltese.

.....

Defence: So how did you realize that was Mr Chukunyere was saying are actually swear words?

The witness: Because I was living in Malta during three years, I know what is swearing like, things like that.

The Court: So he said that word, so he said the first one, all right, I got it; the second?

The witness: I do not remember which word he used, that is why I do not want to state

The Court: All right, all right, so you know a couple of swear words.

The witness: Yes, that is what...

Defence: No. Just one final question, Madam. You were saying that you do not recall what words were said.

The witness: Yes.

Defence: But then you recalled that Mr Chukunyere passed some comments about your behind.

The witness: Yes.

Defence: Which version is the real version?

The Court: No, no, no! She said she does not remember what words were uttered as regards the swear words; we have to be very careful.... She said something on the lines that "grab your ass," something like that.

Defence: After saying that she does not recall what words were said.

The Court: Madam, before you said you do not exactly remember the words, the comment, Mr Chukunyere made about your posterior,

The witness: yes,

The Court: But the general drift of it, what was it?

The witness: It was about my posterior, that is what I said.

The Court: Yes, about your posterior. But what about your posterior? It looks like a peach? Jien naf!

The witness: No, like he made a comment bigger about my posterior, like something about ... or something like that, I do not remember. I know that what it was, now today I cannot tell you what I... I mean... I do not know...

The Court: It is a comment about your posterior. People do not go down passing comments about posteriors! So I hope.

Defence: Just one final question. When allegedly Mr Chukunyere said these words to you, were you walking with someone else or on your own?

The Court: When he made this comment, you were with the rest of them or you were alone?

The witness: I was with the rest of them.

The Court: So you passed by... How close were you to Dishan and the others? Very close?

The witness: I was walking a bit in the back, but yes I was close to them. Not that far, I mean I just walk to him, like I stop ask the guy, "What did

you say?!” and I went back to Dishan, so I was with them, I was not alone.

Il-Qorti eżaminat il-filmat esibit, Dok.CD, minn fejn jirriżulta li sa minn xi hin wara l-04:20hrs jidher l-imputat flimkien ma raġel iehor jitekllmu bi kwiethom fuq taraġ fi qrib ħafna ta Club. Fil-ħin li qattaw hemm diversi kienu l-individwi li waqfu jitekllmu magħhom. Meta saru 04:36:28 jidher grupp ġuvintur u tfajliet b’wahda liebsa shorts abjad miexja wara żewġt ġuvintur. Tidher idur lejn id-direzzjoni fejn hemm l-imputat u sieħbu u sekondi wara dak li jidher hu Dishan Darmanin jagħti s-salt għal fuq l-imputat. Fl-istess hin qed jiġi aggredit dak li kien mal-imputat tant li Chukunyere jipprova jgħinu u jferqu minn ma Darmanin u šhabu.

Ma jista’ jibqa’ ebda dubbju li kien Darmanin li aggredixxa lil Chukunyere (04:36hrs) fejn anke meta jaqa lura mal-art (04:37:11) jibqa’ jaqla daqqiet ta sieq minn għand Darmanin li kien liebes shorts twil bajdani. Dan ikompli jballatlu sakemm jaslu l-pulizija (04:37:29) li kellhom jużaw forza biex jrażżnu lil Darmanin u šhabu.

Fuq dawn ir-riżultanzi proċesswali l-Qorti tqis li l-prosekuzzjoni naqset milli tipprova il-każ tagħha.

Għalhekk qed tillibera lill-imputat minn kull htija w piena.

Donatella M. Frendo Dimech
Maġistrat