



Court of Magistrates (Gozo)
AS A COURT OF CRIMINAL JUDICATURE
Magistrate Dr. Jean Paul Grech B.A., LL.D
M.Juris (Int. Law), Adv. Trib. Eccl. Melit

JUDGEMENT

Today, Thursday the twenty sixth (26th) of September 2024

Case Number 165/2023

The Police

(Inspector Josef Gauci)

VS

Gils Bert Coppoolse

The Court,

Having seen the charges brought against **Gils Bert Coppoolse**, born in the Netherlands on the twenty-ninth (29th) March 1981 and residing at Oplympica, Flat 1, Triq Ramla, Nadur, Gozo holder of Maltese identity card number 59250(A) for having on the twenty second (22nd) March

2023 at around five minutes past eight in the evening (20:05hrs), inside 'Olympica, Flat 1, Triq ir-Ramla, Nadur, Gozo or elsewhere:

(1) injured or threatened or made an offence on persons charged according to law with a public service, namely PC 979 Daniel Mohr and PC 754 Nicholas Bugeja, while they were doing this service or with the intention of scaring them or influencing them against the law in the execution of that service;¹

(2) on the same date, place, time and circumstances he wilfully violated the rest of the people with noises or shouts or in another way;²

(3) on the same date, time, place and circumstances, he broke the peace and good public order by shouting and fighting;³

(4) on the same date, place, time and circumstances said in public, indecent and obscene words consisting of blasphemy or made obscene acts or gestures or in any other way offended morals, appropriate behaviour or public decency.⁴

The Court was humbly requested that in case the accused is found guilty, where it deems it expedient, in order to provide for the safety of

¹ Article 95 of Chapter 9 of the Laws of Malta.

² Article 338(m) of Chapter 9 of the Laws of Malta.

³ Article 338(dd) of Chapter 9 of the Laws of Malta.

⁴ Article 338(bb) of Chapter 9 of the Laws of Malta.

individuals or for the keeping of public peace, in addition to, or in lieu of the punishment applicable to the offence, require the offender to enter into his own recognizance in a sum of money to be fixed by the court.⁵

Having seen that the case was assigned to this Court as presided following an order dated nineteenth (19th) day of February 2024 issued by the Chief Justice in terms of Article 11(3) of Chapter 12 of the Laws of Malta and Article 520 of Chapter 9 of the Laws of Malta;

Having seen the evidence compiled, the documents exhibited and all acts of the proceedings;

Having heard the evidence and final submissions of the parties;

Considers;

The facts of the case are as follows: on the twenty-second (22nd) March 2023, the Police received a report from a caller who claimed that noise was coming from an apartment two storeys above his maisonette in the block of flats named “Oplympica” situated in Triq ir-Ramla, Nadur, Gozo. Police officers reported on site and heard loud music coming out of an apartment. They knocked on the door and a male person opened whom the Police eventually identified as Gils Bert Coppolse, the accused. The

⁵ Art. 383(1) of Chapter 9 of the Laws of Malta

Police informed him of the report which had been filed namely that his neighbours were complaining that loud music was coming from inside his residence. The accused started claiming that the Police had turned up at his residence because they were friends with the caller and they were doing him a favour. Accused became increasingly agitated and argued that he could do whatever he liked inside his residence. At this point the Police Officers asked him for his identity card as well for his phone number. He refused to provide his phone number, constantly asking why the Police was requesting this information. He told the Police that he was feeling threatened by them and asked for his identity card to be returned. The Police returned it to him after that he provided his phone number as he had been requested. The Police informed him that all the interaction had been captured on their bodycams. The accused immediately pointed his middle finger at the Police and insulted them with the words “Fuck Off” several times. He was informed that charges were going to be issued against him.

Considers;

A. The Second (2nd) (Article 338(m)), Third (3rd) (Article 338(dd)) and Fourth (4th) (Article 338bb) Charges

With reference to the second (2nd), third (3rd) and fourth (4th) charges, the criminal action is time-barred. These three (3) charges are all classified as contraventions meaning that the accused had to be notified

with the charges within a three-month window from the date of the alleged incident.⁶ In this case, the accused was notified with the charges on the 17th July 2023,⁷ that is after that the three-month time window had already elapsed. Although the Defence did not raise such a plea, in terms of article 694 of Chapter 9 prescription is to be applied by the Court *ex officio*. Consequently the Court will be proceeding to declare the criminal action as regards the second (2nd), third (3rd) and fourth (4th) charges as being time-barred.

B. The First (1st) Charge – Article 95 of Chapter 9

Article 95 provides that:

“Whosoever, in any other case not included in the last preceding two articles, shall revile, or threaten, or cause a bodily harm to any person lawfully charged with a public duty, while in the act of discharging his duty or because of his having discharged such duty, or with intent to intimidate or unduly influence him in the discharge of such duty, shall, on conviction, be liable to the punishment established for the vilification, threat, or bodily harm, when not accompanied with the

⁶ Vide article 688(f) of Chapter 9 of the Laws of Malta.

⁷ Fol. 8 of the Acts of the case.

circumstances mentioned in this article, increased by two degrees and to a fine (multa) of not less than eight hundred euro (€800) and not more than five thousand euro(€5,000)."

In so far as this article is concerned criminal liability ensues if a person does one of the three (3) specific actions identified in the article: if he insults or threatens or causes a bodily harm to a person lawfully charged with a public duty. Hence any one action out of these three would suffice for a finding of guilt under this article.

In commenting on article 93 of the Criminal Code (which commentary has also been extended to article 95), Professor Mamo notes that **any insult or threat** is sufficient to constitute this first ingredient of the crime. He goes to add that insults may consist in *"words spoken or written, gestures, drawings or other means calculated to destroy or lessen the reputation of the person against whom they are addressed or uttered or used, or to hurt the feelings of or give offence to such person. The insult may be specific or may consist in vague expressions or indeterminate reproaches or words or acts merely indecent or offensive."*⁸

Furthermore it is important that the insults are addressed to a public official in the course of the execution of his official duties. Infact in the

⁸ Mamo A. Second Year Criminal Law Notes, (Revamped by Christopher Aquilina - 2022), page 63.

case ***Il-Pulizija v Emanuel Pace***⁹, the Court of Criminal Appeal had underlined that:

“sabiex jissusisti d-delitt ta' oltraġġ hemm bżonn li l-kliem denunzjat bħala ingurjuż, jkun ingħad lil wieħed li għandu kwalifika ta' uffiċjal pubbliku u li jkun filwaqt ta' dan ikun fl-att tas-servizz "officio durante ad contemplazione officii. Fil-fatt, jekk persuna li tkun pulizija tinzerta f'post u tigi ingurjata jekk ma tkunx hemm fuq xi ordni speċifiku iżda b'semplici kumbinazzjoni, allura dan id-delitt ma jeżistix.”

From the evidence submitted, there is no doubt that PC 754 Nicholas Bugeja and PC 979 Daniel Mohr reported to the accused's residence in their capacity as Police Officers whilst on duty. This following a report which was received by the Police at their control room. It was reported that the accused was being a nuisance to his neighbours because he was playing music with the volume full on inside his residence. From an examination of the bodycam footage, it is clear that although at first the accused was calm and polite, his behaviour vis-à-vis the Police soon degenerated. At one point he even bangs loudly the door so as to intimidate the same Police Officers. He became more agitated when the Police asked him for his personal details as well as his phone

⁹ 30 ta' April, 1993 - App. Nru. 217/91,

number. Towards the end of his conversation with the Police, the accused lost his composure completely and is heard numerous times telling the Police to “fuck off” and he even showed to them his “middle finger”. The accused’s actions definitely amount to vilification: the accused effectively insulted the Police Officers whilst they were discharging their duty. As pointed out earlier on this suffices to attract criminal liability in terms of this article.

It is clear that the accused was angry that he had been chided by the Police because he was playing loud music inside his residence. In fact he is also heard saying to the Police that they knew the persons who had filed a report and that was the reason why they had knocked on his door. Although this comment in itself does not amount to vilification, it is indicative of the accused’s state of mind as he was speaking to the Police Officers. It goes to show that he was really pissed off by the Police’s visit. Since it was still eight o’clock in the evening, the accused believed that he was entitled to play music with the volume full on, even though he was annoying his neighbours. He was therefore not amused when the Police ordered him to turn down the volume. This indicates that the accused had effectively the intention to revile the Police Officers.

Although the defence claims that the accused lost his composure because he was provoked by the Police, this is definitely not the case. One of the Police Officers raised his voice **after that** the same accused

had aggressively addressed the Police Officers. Furthermore, although the Police told him that they just needed his phone number and that they were going to leave once that he provides the same, the accused continued altercating with the Police and acting aggressively. He then proceeded to insult the same police officers. This charge has therefore been proven.

The Court cannot tolerate this type of abuse against Public Officers who are entrusted by law with a public duty; police officers' orders should be respected. There are ways and means to contest Police Orders if a person thinks that the Police exceeded the limits of their authority. The fact that a person may disagree with an order given by a Police Officer does not entitle him or her to insult that Police Officer.

- **Decide**

Consequently for the reasons outlined above:

(a) with reference to the second (2nd), third (3rd) and fourth (4th) charges, the Court **is declaring these charges time-barred and consequently the relative criminal action vis-à-vis these charges has been extinguished;**

(b) after having seen article 95 of Chapter 9 of the Laws of Malta the Court **is finding the accused guilty of the first (1st) charge** brought

against him and is condemning him to a fine (*multa*) of eight hundred euro (€ 800).

Finally the Court after having seen article 383 of Chapter 9 of the Laws of Malta in order to provide for the safety of PC 979 Daniel Mohr and PC 754 Nicholas Bugeja is ordering the offender to bind himself not to molest, threaten or annoy the same PC 979 Daniel Mohr and PC 754 Nicholas Bugeja and this for a period of one (1) year from today. Should the offender fail to abide by this guarantee a penalty of five hundred euro (€ 500) shall be due to the Government of Malta.

(sgd) Dr. Jean Paul Grech
Magistrate

(sgd) Diane Farrugia
Deputy Registrar

True Copy

For The Registrar