



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

**MAGISTRATE DR MARSE-ANN FARRUGIA LL.D.**

**Sitting held today Wednesday, 18th December 2024**

**The Police  
(Inspector Joseph Xerri)**

**vs**

**Marcel Andres Ekvall Parada**

The Court:

1. Having seen charges brought against:

Marcel Andres Ekvall Parada of 24 years, son of Maurizio Parada and Marina Ekvall born in Sweden on the 9th April 1994, resident at 127, Triq Rodolfu, Sliema, holder of Swedish National Identity Card Personal No. 940409-3057; Card No. 72737689.

Charged with having on the 13th January 2019 and the preceding weeks and months, on these Islands, by means of several acts committed, even if at different times, which constituted violations of the same provision of the law, and were committed in pursuance of the same design:

1. Engaged in non-consensual carnal connection, that is to say, vaginal or anal penetration of a sexual nature with any bodily part, and, or, any object, or oral penetration with any sexual organ of the body of another person namely Amanda Simone Olsson;  
Art. 198(1) of Cap. 9 of the Laws of Malta;
  
2. Moreover, for having on the same date, place, time and circumstances, pursued a course of conduct which amounted to harassment of another person, or pursued a course of conduct which he knew or ought to have known amounts to harassment of such other person, or subjected another person to an act of physical intimacy, or subjected another person to any act and, or conduct with sexual connotations, including spoken words, gestures and, or the production, display, circulation of any written words, pictures, and, or any other material, where such act, words, and, or conduct is unwelcome to the victim, and could be reasonably regarded as offensive, humiliating, degrading, and, or intimidating towards that person, and this to the detriment of Amanda Simone Olsson;  
Art. 251A(1)(a), (b), (c), (e) of Cap. 9 of the Laws of Malta;
  
3. Moreover, for having, between the 12th January 2019 and the 13th January 2019, had in his possession the drugs (cocaine) specified in the First Schedule of the Dangerous Drug Ordinance, Chapter 101 of the Laws of Malta, when he was not in possession of an import or an export authorisation issued by the Chief Government Medical Officer in pursuance of the provisions of paragraphs 4 and 6 of the Ordinance, and when he was not licensed or otherwise authorised to manufacture or supply the mentioned drugs, and was not otherwise licensed by the President of Malta or authorised by the Internal Control of Dangerous Drugs Regulations (G.N. 292/1939) to be in possession of the mentioned drugs, and failed to prove that the mentioned drugs was supplied to him for his personal use, according to a medical prescription as provided in the said regulations, and this in breach of the 1939 Regulations, of the Internal Control of Dangerous Drugs (G.N. 292/1939) as subsequently amended by the Dangerous Drugs Ordinance Chapter 101 of the Laws of Malta

The Court was requested to provide for the safety of Amanda Simone Olsson by issuing a Protection Order in accordance with the provisions of Article 412C of Chapter 9 of the Laws of Malta under such restrictions or prohibitions as the Court may consider necessary.

The Court was requested to provide for the safety of Amanda Simone Olsson and her family in accordance with Article 383 of Chapter 9 of the Laws of Malta.

The Court was requested that, in passing judgment against the accused, together with any punishment to which it may sentence the offender, make a Restraining Order in terms of Article 382A of Chapter 9 of the Laws of Malta for the protection of Amanda Simone Olsson.

The Court was requested, in pronouncing judgment or in any subsequent order, sentence the aforementioned Marcel Andres Ekvall Parada to the payment, wholly or in part, of the costs incurred in connection with the employment in the proceedings of any expert or referee in accordance with Article 533 of Chapter 9 of the Laws of Malta.

2. Having seen the note of the Attorney General of the 3<sup>rd</sup> December 2021, wherein he sent the records of this case for the defendant to be tried by this Court, since in his opinion, from the preliminary investigation, there might result an offence (or offences) under the provisions of:
  - a) Article 198 of the Criminal Code, Chapter 9 of the Laws of Malta;
  - b) Article 251A of the Criminal Code, Chapter 9 of the Laws of Malta;
  - c) Articles 17, 18, 31, 382A, 383, 412C and 533, of the Criminal Code, Chapter 9 of the Laws of Malta;
3. Having heard the defendant declare that he has no objection that his case be tried summarily by this Court.
4. Having seen the order of the Attorney General in virtue of subsection two (2) of Section 22 of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) and contained in the same note of the 3<sup>rd</sup> December 2021, for the charges brought against the defendant for the breach of the provisions of the said ordinance to be heard by this Court.

5. Having heard the evidence and having seen all the records of the case and documents exhibited.
6. Having seen the note of submissions of the Prosecution and that of the defence.

### **The Facts**

7. The facts which gave rise to these proceedings are in brief the following:
  - (i) On the 13<sup>th</sup> January 2019 at around 4.35am, the St. Julian's Police Station was informed that a female needed police assistance in Triq is-Sidra, Swieqi and she was alleging she was being raped.
  - (ii) When the Police went on site they found Ms Amanda Simone Olssen, who at the time was twenty (20) years old. She declared that she had been raped by the defendant, who was with her the previous night, but had left following the incident.
  - (iii) Ms. Olssen stated that she had known the defendant for a few months, since he was a work colleague of hers. For about a week, she was sharing the flat with Zacharias Norin who was going to start working with her the following Monday and she wanted to introduce him to the defendant so that he can familiarize himself with someone else. So, they invited the defendant for some drinks, and she said that the defendant drank a lot of alcohol. Mr Norin went in his room to sleep at about 10.00pm, and she remained alone with the defendant. She recalled that the defendant used cocaine at different times during that night.
  - (iv) Ms. Olssen explained that the night before she had gone out with another man who she was dating, and they had sexual intercourse. She was also messaging this other man during the night, and she said the defendant was not happy about this. She stated that the defendant started suggesting that they should go in her bedroom and that they should be in a relationship. She tried to distract him by suggesting that they should go to Paceville, as they did. She explained that after they had been to

a couple of bars, she brought up excuses to go back home alone, but the defendant persisted in walking behind her. Eventually they went into her bedroom, and the defendant was going to sleep in one bed, and she was going to sleep in another one.

- (v) Ms. Olssen explained that she laid on her bed on her right-hand side, waiting for the defendant to fall asleep, to go to sleep in another bedroom, because she did not feel comfortable staying in the same room. But somehow, she fell asleep, and the next thing she remembered was waking up still on her right-hand side, with the defendant lying behind her, and feeling that she had been penetrated anally. She said that she panicked and at that point the defendant grabbed her left hip and penetrated her in her vagina.
- (vi) Ms. Olssen stated that she got out of bed and went into Mr Norin's room, but she was so shocked that she was unable to explain to him what had happened but pointed to her private parts. The defendant also entered Mr Norin's bedroom asking her what had happened, and she ran out of the flat into the street.
- (vii) The Police asked her whether there were any previous incidents of inappropriate behaviour by the defendant, and she replied that on one occasion he had said something in the sense that he "would like to eat her up", and on another occasion he had grabbed her buttocks. She also stated that there was another incident when she was living in a different apartment, the defendant did not want to leave the apartment and she had to request a colleague, a certain Victor, to intervene.
- (viii) Later in the morning the defendant was arrested and during his interrogation he confirmed that the previous evening he had met Ms Olssen and Mr Norin for some drinks in the flat where she was residing. He said they drank heavily and at a certain point they went to Paceville, but Mr Norin did not go with them.
- (ix) The defendant stated that when they returned to the flat, they went to sleep in Ms Olssen's room but in separate beds. After some time, he got into Amanda's bed and started cuddling her. She was lying on her right side. He stated that Ms. Olssen put his hand on her hip, and since he thought that Ms Olssen "*wanted something more*", he started putting down her pants, at which point he said that Ms Olssen

freaked out and rushed in Mr Norin's room. He followed her and asked her what was wrong, and she went out of the apartment into the street.

- (x) The Police proceeded to institute these criminal proceedings against the defendant.

## Considerations of the Court on Guilt

### The First Charge: Rape

8. The defence is not contesting that in the night in question, the defendant was in Ms Olsson's room, and that at one point he moved from his bed into her bed, and laid behind Ms. Olsson, cuddling her while she was lying on her right-hand side. Neither is it contested that the defendant had, at least slightly, pulled down Ms. Olsson's pants from her left hip. During his interrogation, the defendant stated as follows: "*(A)fter five (5) minutes I went to her bed and laid down and I took my hand like this and from there she took my hand and hold it like a couple of seconds and then she put it back on the ... [hip] ... .. And from there I thought she wanted something else, so I started to cuddle with her and from there I was starting to like \*\*\* to the \*\*\* like if she wanted something more. So I was like to, I wanted to put off her pants but when I was like half way through was like "No! no!" like this and then she ran off.*"<sup>1</sup> From this point onwards the versions of the defendant and that of Ms. Olsson diverge, and whilst Ms Olsson states that the defendant penetrated in her anus and vagina against her will, the defendant denies having done any further acts.
9. It very often happens that a Court is confronted with conflicting versions and testimony. In this case, as is expected in such circumstances, there are no other witnesses to the alleged incident. The Court is faced with a situation where the guilt or otherwise of the person charged rests solely on the credibility of the version of the defendant and that of the alleged victim. As was held by the Court of Criminal Appeal (in its inferior jurisdiction)<sup>2</sup> in the judgement **The Police vs Graham Charles Ducker**, decided on the 19<sup>th</sup> May 1997:

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<sup>1</sup> See page 266 of the proceedings.

<sup>2</sup> Per Judge Vincent De Gaetano.

*“It is true that conflicting evidence ‘per se’ does not necessarily mean that whoever has to judge may not come to a conclusion of guilt. Whoever has to judge may, after consideration of all circumstances of the case dismiss one version and accept as true the opposing one.”*

10. Ms. Olssen has explained her version of events three times: the first time to the Police officers who went on site when the report was made, the second time to the experts appointed in the inquiry *in genere* and the third time before this Court.
11. According to the Police report, Ms Olsson reported that *“She stated that in room 3 being her room she dozed off and slept. She explained that she was woken up by pain in her anus and felt that Marcel had penetrated her. She stated that he was kind of laughing and immediately by holding her down on the bed penetrated her in her vagina.”*<sup>3</sup>
12. Prosecuting Officer Inspector Paula Ciantar also confirmed under oath that Ms Olsson *“said that she had been penetrated anally, she realized that behind her, she was lying on her right-hand side and behind her there was Mr. Parada, he had pulled down her trousers from the left-hand side because ... .. she was on the right-hand side just beneath her buttocks, and he had penetrated her anally. She then stated that she had panicked, and Mr Parada grabbed her left hip and penetrated her vaginally.”*<sup>4</sup>
13. In their evidence, PS780 Ian Camilleri and WPC439 Monique Mangion also stated that Ms Olssen had told them that the defendant first penetrated her anus and then penetrated her vagina.<sup>5</sup> Katia Muscat, a social worker within Victim Support Malta, stated that the injured party had told her that *“Mr Parada’s penis was in her anus and he told her not to move and she stated that he penetrated in her vagina from behind.”*<sup>6</sup>
14. Ms Olssen gave evidence on the same day of the incident before Dr Lennox Vella, one of the experts appointed in the inquiry *in genere*. In her evidence, Ms Olssen did not state that the defendant penetrated her in her anus, but that she felt the defendant *“trying*

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<sup>3</sup> See page 14 of the proceedings.

<sup>4</sup> See page 172 of the proceedings.

<sup>5</sup> See pages 186, 188, 189 and 191 of the proceedings.

<sup>6</sup> See page 662 of the proceedings.

*to penetrate her anus”, and then she continued saying that “then his penis went inside my vagina while still holding me from behind.”*<sup>7</sup>

15. When Ms Olssen gave evidence before this Court on the 28<sup>th</sup> January 2019, fifteen days after the incident, she stated that *“she wakes up feeling him on her back and his penis in her vagina like penetrating her, and that is how she wakes up. And she does not recall how long he was inside of her because ... .. She does not recall what he did prior. The only thing that she recalls is that he had an erection.”*<sup>8</sup>
16. During cross-examination, the defence confronted her with the fact that this evidence was not consistent with the version of the events she had given to the Police where she had stated that the defendant had first penetrated her anus and then her vagina, but she denied that she had told the Police that the defendant had penetrated her anus but had only told them that *“she felt something in her anus. She did not feel the whole penis going in but felt something.”* She added that then the defendant continued penetrating her vagina.<sup>9</sup>
17. The Court considers that all police officers and the social worker were consistent in their respective testimonies that Ms Olssen told them that the defendant first penetrated her anus, and then her vagina. They had no reason to invent that there was anal penetration before there was vaginal penetration. It was only when she gave evidence before the expert Dr Lennox that Ms Olssen started changing her version and instead, she stated that the defendant first tried to penetrate her anus, and then he penetrated her vagina. In the examination-in-chief before this Court, she even omitted mentioning any attempt of anal penetration, and instead testified that she felt something *“in her back”* not specifically in her anus, and then there was penetration in her vagina.
18. In his note of submissions, the Prosecuting Officer states that Ms. Olssen was consistent in her version of events, bar for minor details. With due respect the Court does not consider a minor detail the fact whether there was full anal penetration, an attempt of anal penetration or no attempt of anal penetration at all. The Court cannot simply attribute these inconsistencies between the three versions to the fact that Ms. Olsson was

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<sup>7</sup> See page 222 of the proceedings.

<sup>8</sup> See page 52 of the proceedings.

<sup>9</sup> See page 55 of the proceedings.



under shock. In giving each version, Ms Olsson went into detail on the dynamics of what happened. The Court has no doubt that she could distinguish whether there was full anal penetration, an attempt of anal penetration and no attempt of anal penetration at all. This is even more so in this case, since from the evidence it results that Ms Olsson was a sexually active young woman.<sup>10</sup>

19. In its note of submissions, the Prosecution submits that in his interrogation the defendant was also inconsistent in the version of events. Whilst at first, he states that he just partially lowered her pants, on one occasion he stated, *"I took them off"*.<sup>11</sup> The Court has seen the audio-visual interrogation, and when the defendant said these words, he was pausing between one phrase and another, trying to recollect what happened. Although the defendant understands the English language, from the audiovisual of the interrogation he sometimes finds it difficult to express himself in the English language. Throughout his interrogation the defendant repeatedly stated that he lowered her pants partially from the left side, since Ms Olssen was lying on the bed on her right-hand side. This is also consistent with the fact that Ms Olssen has always insisted that when she woke up, she was on her side, and the defendant was behind her. In this position, it was very difficult for the defendant to take off her pants without her active collaboration. Hence, the Court is of the opinion that when he said that words *"I took them off"* – the defendant meant that he took the pants partially off from one side, as he had stated a few seconds before.
20. The inconsistency between the versions of events given by Ms Olssen gains even more significance in the light of the medical evidence in the records of the case.
21. Dr Igor Knyzaen, a court expert in gynaecology, stated that Ms Olsson had stated that *"it was an attempt of sexual intercourse and she did not have, she did not mention the full penetration."*<sup>12</sup> He continue saying as follows: *"She said it was attempt to penetrate ... she mentioned initial anal penetration."*<sup>13</sup> This witness did not mention that Ms Olsson also alleged a penetration in the vagina. He concluded that there was no trauma,<sup>14</sup>

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<sup>10</sup> See page 361 of the proceedings.

<sup>11</sup> See page 282 of the proceedings.

<sup>12</sup> See page 304 of the proceedings.

<sup>13</sup> See page 305 of the proceedings.

<sup>14</sup> See page 304 of the proceedings.

there were no scratches, irritation, no signs and neither bruising on the private parts of Ms Olsson.<sup>15</sup>

22. Another court expert Dr Joseph Mifsud testified that Ms Olssen alleged both anal and vaginal penetration.<sup>16</sup> He did a general medical examination and found no evidence of finger-marks or bruising.<sup>17</sup> Under cross-examination Dr Mifsud stated that Ms Olsson *“at first claimed that it was penetration ... ... During more clarification of the fact, then she explained that she felt an attempt of penetration.”*<sup>18</sup>
23. Dr Marisa Cassar, another court expert, stated that no male DNA was present on the underwear, pyjama trousers and bedsheet of Ms. Olsson. In her report she also stated that *“Mill-kampjun li ttiehed mill-parti ta’ fuq tal-halq u mill-pubic hair ma hareg l-ebda profil genetiku ... ... Mill-kampjuni intimi u mill-kampjun li ttiehed mill-qalziet ta’ taht hareg profil genetiku tal-istess mara.”*<sup>19</sup>
24. As regards the conclusions reached by court expert Dr Marisa Cassar on the non-presence of a male DNA, it is pertinent to point out that in the Police report it is stated that Ms. Olssen explained to the Police that *“she did not wash herself after the incident.”*<sup>20</sup>
25. This total lack of forensic medical evidence of any form of trauma – particularly in the private parts of Ms Olsson – continues to put into doubt the allegations made by Ms Olsson against the defendant, and on what exactly happened between them. The Court points out Ms Olsson is of petite stature, whilst the defendant is a very well-built man – this difference in stature makes the complete absence of any kind of physical trauma on her body even more unexplainable.
26. From the records of the proceedings, there are at least two other instances where the evidence of Ms. Olsson is contradicted by other independent evidence. The first one is her allegation that after the alleged rape, the defendant followed her in Zacharias Norin’s room, and he was angry and furious with her.<sup>21</sup> She also stated that when afterwards she

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<sup>15</sup> See page 305 of the proceedings.

<sup>16</sup> See page 332 of the proceedings.

<sup>17</sup> See page 333 of the proceedings.

<sup>18</sup> See page 335 of the proceedings.

<sup>19</sup> See page 465 of the proceedings.

<sup>20</sup> See page 15 of the proceedings.

<sup>21</sup> See page 44 – 45 of the proceedings.

went into the block together with Mr Norin, the defendant started banging on the entrance door of the block to go in.<sup>22</sup> On the other hand, Mr Norin stated that the defendant walked into his bedroom asking to smoke a cigarette with her and talk, and she refused, opened the front door and left the apartment.<sup>23</sup> Mr Norin then told the defendant it would be better if he leaves the apartment, and the defendant quietly complied. When the three of them were out of the block, Mr Norin stated that Ms Olssen came out of her hiding spot, and started screaming “how could you do this to me?!” and the defendant tried to calm her down.<sup>24</sup> He also denied that the defendant was in any way aggressive or threatening whilst outside the block, and insisted that the defendant was quiet.<sup>25</sup>

27. In her evidence Ms. Olssen also stated that since the defendant was hinting that they should go to her bedroom, in order to diffuse the situation, she suggested “*that they should go out to Paceville to party because in her mind she could lose him in the crowd.*”<sup>26</sup> On the other hand Zacharias Norin stated under oath that this was not the case because “*it was Amanda’s idea from the beginning*” to go out and party. In fact, she even invited Mr. Norin to join them, but he refused and instead went to bed.<sup>27</sup>
28. Furthermore, although Ms Olssen stated that she wanted to go to Paceville to lose the defendant in the crowd, from the text messages exchanged between the two of them it results, that at 00:54:34, Ms Olssen sent a text message to the defendant: “*Where are you?*”<sup>28</sup> One minute later, she sent him another message: “*Looking for you. Where is FJ*”.<sup>29</sup> Soon after she sent him the message “*Write where you are, have to find you.*”<sup>30</sup> These messages clearly show that when the two of them separated whilst in Paceville, Ms Olssen was messaging the defendant so that they could meet again. Hence, in fact, Ms Olssen was not trying to lose the defendant in the crowd, but in fact wanted to stay with him. These incidents inevitably continue to dent the credibility of Ms Olssen as a witness.

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<sup>22</sup> See page 45 of the proceedings and the evidence of Inspector Paula Ciantar at page 173 of the proceedings.

<sup>23</sup> See page 144 of the proceedings.

<sup>24</sup> See page 145 of the proceedings.

<sup>25</sup> See page 148 – 149 of the proceedings.

<sup>26</sup> See page 35 of the proceedings.

<sup>27</sup> See page 146 of the proceedings.

<sup>28</sup> See page 511 of the proceedings.

<sup>29</sup> See page 512 of the proceedings.

<sup>30</sup> See page 513 of the proceedings.

29. In the light of the above considerations, the Court is of the opinion that the Prosecution has not managed to prove the charge of rape beyond reasonable doubt.

*The Second Charge: Harassment*

30. In order to prove this second charge of harassment, the Prosecution referred to four distinct occurrences: an incident a week before the alleged rape where the defendant attempted to sleep in the bedroom of Ms Olssen, that the defendant had groped her two or three times before, he had sent her an inappropriate text message at her workplace, and the incident on the night of the alleged rape, where whilst in Paceville, the defendant allegedly continued to follow her movements, despite her attempt to lose him in the crowd.
31. As regards what happened in Paceville on the night of the alleged rape, the Court refers to her observations and conclusions on the matter.
32. As regards the first incident, Ms. Olssen alleges that a week before the night of the rape, the defendant persisted in entering her room, and she had to ask another roommate, Victor, for help. In his interrogation, the defendant confirmed that he was in her bed on that occasion, but he said this was done with her consent, since she even changed her clothes in front of him and went in bed next to him.<sup>31</sup> The defendant then stated that Victor came into the room, and told him he could not sleep there because the apartment belonged to the company with which they were employed. The Prosecution did not summon Victor as a witness, who could have corroborated the version given by Ms Olssen.
33. Ms Olssen also alleged that the defendant had sent her an inappropriate message at her workplace, and she had reported the matter to her supervisor Fabrizio. But when Fabrizio Nobile gave evidence, he stated that he never received any reports by Ms Olssen on the defendant.<sup>32</sup>

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<sup>31</sup> See page 286 of the proceedings.

<sup>32</sup> See page 620 of the proceedings.

34. From the above, apart from the testimony of Ms Olssen herself, there is no independent evidence in the records of the proceedings to corroborate the allegations of harassment. However, the Court does not consider Ms Olssen to be a credible witness.
35. Whatever may have happened, from the evidence it results that Ms Olssen was not being annoyed, alarmed or under emotional distress by the actions of the defendant. During cross-examination, when she was asked about the incident where she allegedly called Victor for help, Ms Olssen replied that she was not particularly upset with the said incident.<sup>33</sup> In fact, it was she who invited the defendant to her apartment on the night of the alleged rape. Mr Zacharias Norin stated that she told him *“I will invite Marcel, he is a nice guy, you will like him.”*<sup>34</sup>
36. The Court has no doubt that had Ms Olssen truly felt that the defendant was harassing her, she would not have invited him to her apartment, nor would she have described him as a likeable person to Mr Norin.
37. In the light of the above considerations, the Court considers that this second charge of harassment has not been duly proven according to law.

### *The Third Charge – Simple Possession of Cocaine*

38. On this third charge of unlawful possession of cocaine, the Prosecution is relying solely on the evidence of Ms. Olssen that on the night in question she saw the white powder while they were drinking in Paceville, and the defendant told her that it was cocaine.<sup>35</sup> When asked about this allegation during the interrogation, the defendant exercised his right to silence.
39. Although the Prosecution does not need to produce scientific evidence to identify a drug in every case, it must still bring forth sufficient evidence to prove its case beyond reasonable doubt. In this case, the Prosecution could easily have exhibited the toxicology results of the tests the defendant had to undergo when he was admitted to prison at the

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<sup>33</sup> See page 57 - 58 of the proceedings.

<sup>34</sup> See page 146 of the proceedings.

<sup>35</sup> See page 46 of the proceedings.

beginning of the proceedings. The Prosecution has failed to do so, and instead is resting its case solely on the testimony of Ms. Olsson. For the reasons set out above, the Court has already stated that it does not consider Ms. Olsson to be a credible witness.

40. In view of the above, the Court is of the opinion that this charge has not been duly proved according to law.

### **Conclusion**

41. For these reasons, the Court finds the defendant not guilty of all charges preferred against him and acquits him of the said charges.

### **Magistrate**

**Doreen Pickard**  
**Deputy Registrar**