



In the Court of Magistrates (Malta)
As a Court of Criminal Judicature
Magistrate Dr. Yana Micallef Stafrace LL.D.

The Police

(Diane Vella)

Vs

Noor Ul Basar

24th February 2025

The Court

Having seen the charges against Noor Ul Basar son of N/A born on the 01/09/1990 residing 51, Concordia, Vjal il-Helsien, Zebbug. ID 0217045A.

That on the 16 of July, 2022 at about 14.45 hrs in Triq Burmarrad, San Pawl il-Bahar drove vehicle with registration number FBT984.

1. And through imprudence, carelessness, unskilfulness in his art or profession or non-observance of regulation and caused Svetlana Kabanec involuntary grievous injuries as certified by Dr. Christine Caruana M.D. of -M.D.H.

The Prosecution requests that the mentioned person be disqualified from all his driving licenses.

The Court is humbly requested that in case of guilt, also deducts points from the driving license, as indicated in S.L. 65.18 Art 36B and in S.L. 65.18 Sixth Schedule.

Having seen Articles 226(1) (b) of Chap 9 S.L. 65.18 Art 36B and in S.L. 65.18 Sixth Schedule of the laws of Malta

Having seen all the witnesses produced by the prosecution

Having seen the testimony of the accused

Having seen all the documents, testimony and evidence in the proceedings

Having seen the Oral submissions

Considerations of this court

PS 364 David Borg Grima and Dr Christine Caruana gave testimony by means of an affidavit

Svetlana Kabanec,on oath stated :

Adv: Where you involved an accident and if so, give us the date and the location?

Wit: The date it was 16 July 2022 and it was the triq Burmarrad in St. Paul's Bay.

Adv: Okay, at what time? Approximately time?

Wit: It was approximately 02:30, 2.45 afternoon.

Adv: Afternoon. Okay, and what happened? Where were you and what happened?

Wit: Actually, I was waiting to I mean, I was going to across the road under the traffic lights and,

Court: You were pedestrian?

Wit: Yes on the pedestrian yes. And I was trying to reach the another side all of a sudden I mean, the vehicles, they stopped on the they were stopping because of the traffic lights I was right to cross.

Adv: Okay, so what colour were the traffic lights?

Wit: So and actually from my left side there wasn't no any vehicles, which is coming on my left side So I tried to cross the street and all of a sudden on the edge, almost two steps on the another side, I feel the heat somebody hit me, the vehicle I didn't see.

Court: So you were on the traffic lights, you were crossing the street, You were crossing according to the the green lighta and when you had almost arrived on the other side of the road, a vehicle came and hit you?

Wit: Yes.

Adv: You are crossing on green light.

Wit: So all of a sudden I fall down on the pavement, facing down, I scratch my leg, I feel the very bad pain and somebody who was, I mean, on the road called the ambulance so in the I mean, 10/15 minutes, 20 minutes I don't remember how much time they need to arrive. They come, they check how I feel and how it is I mean, how I'm injured and they send me an ambulance in Mater Dei, urgently.

Adv: Okay, and you were hit by what?

Wit: I was hit by motorbike, because I saw the motorbike fall down next to me.

Court: And do you recognise the driver of the motorbike?

Wit: Yes, he's here the guy who is speaking with lawyer in the moment.

Court: The witness indicated the accused.

Wit: So I didn't know how bad I'm injured and they transferred me in the Mater Dei to wait for medication, treatment actually, I spend around 10 hours there in the pain and waiting for the doctor.

Adv: Okay, just one point to clarify you said you were crossing the road at what point had you arrived before you were hit by the motorcycle?

Wit: I was literally like, if it's road like here So I was just two steps on the end of the road.

Avu: Okay, no further questions.

Avu2: Would I be correct to suggest to you that you were coming from the bus stop?

Wit: It was bus stop it was on my left side I was exactly under the traffic lights.

Adv2: So am I of the correct understanding that you were going out of the bus?

Wit: No, I didn't I was I mean, exactly under the traffic lights.

Adv2: But before you were exactly under the, Where were you?

Wit: I was waiting to across the street for the I mean, because it was the lights and I was going to pass on another side.

Adv2: But you arrived at the spot with the bus, am I correct?

Wit: No, I was walking.

Adv: You was walking or you were walking, so and if I suggest to you that you were in actual fact, you were not exactly under the traffic lights, but you were a bit before the traffic lights?

Wit: No, exactly where is the traffic lights because there is the exactly traffic lights here and the pedestrian crossing under the traffic lights, and that I was passing by.

Adv2: And when you arrived near the traffic lights, you immediately crossed or you waited some?

Wit: It was already green light, so I could cross.

Adv: So you immediately crossed, you arrived at the spot?

Wit: No, I was have a look, you know, first, before then I go, I mean, and across the street, like you said.

Adv2: But you didn't do anything else except arrive at the spot and you crossed?

Wit: No, I'd say when you want to across the street, you have a look on the left, on the right side, and even on the traffic lights usually so I was sure that I cannot cross the street so from my side there wasn't I mean,

Adv2: You were sure that you could cross the street?

Wit: Yes.

Adv2: In your version, to the police officers when this incident happened a few minutes after you said, actually, I'm going to ask the question, did you speak to the person who was driving this motorcycle?

Wit: No, I didn't. I mean, so whatever it's happened, it's how then I can speak. I speak with that moment with a police officer or whoever comes in the emergency.

Adv2: Were there any other people except you and the person was driving the motorcycle?

Wit: I mean, I know that somebody was I mean, calling the police, but I really don't know who they are, the people.

Adv2: But there were other people in the area?

Wit: Probably because the traffic lights from this side, it was closed and there was the people who was waiting to.

Adv2: And in actual fact, when you were crossing the road, there were other cars who stopped?

Wit: From my right side there was the stop the cars and everything You know, the bus already passed the traffic lights and he was on the Bus stop and nothing else on my left side was. So when I was crossing the street, there was no any vehicle on my left side.

Adv2: And the bus, was it still at the bus stop at that moment in time?

Wit: At the moment when I was crossing the street Yes, yes but he was past already the traffic lights.

Adv2: And it was stopped on the bus stop after the traffic lights?

Wit: And I was waiting that I can see then I can secure past the road.

Noor UI Basar on oath stated :

Adv: So you already heard the testimony of the person who you allegedly hit with your motorcycle, can you provide us with the story, how it unfolded that day?

Wit: I was coming to Mosta from Bugibba so before the Kiabi where is the cemmetry, there is no traffic light and the traffic light is before I already passed from traffic light and she was from the other side She was run on me and I fall down because I was on my way.

Court: One moment so you're saying, let me see if I understand you were going your way more or less near Kiabi, right?

Wit: Yesa and you had passed the traffic light Yes, I was and she ran across the road and you lost control and you hit her?

Wit: Yes, she come on me. She ran on me and of course, I didn't have chance.

Court: What? Where did she run from the other side of the road or from the middle of the road?

Wit: The other side of the road.

Court: That is two way, right?

Wit: Yes, two way And the other side was traffic incoming road there they were waiting for the roundabout was traffic and my side.

Court: So was incoming traffic what do you mean?

Wit: It was a queue of the car.

Court: So she crossed from between the queue?

Wit: Yes.

Court: So when did you first see her when she was on the other side of the road or from the middle of the road?

Wit: No, when I see her exactly near me when she was running on me.

Court: One moment, in the middle of the road you saw her or exactly in the area, you're saying?

Wit: When I was driving, I saw her when I hit her, you know, she was because there was buses and cars and it was queue and she come behind it and run on me and it was next to cemetery even the police, they will have the record where we they take from where they take us.

Adv: As a result of what you have just described, what happened to you?

Wit: I was in hospital as well, with her together and the ambulance came and they took her, me and her as well.

Adv: And what have you decided to do on those injuries?

Wit: My legs was injury I cannot even walk, like almost three months because it was with fungus and my bones was.

Adv: And you said You said that you lost control of your motorcycle, right?

Wit: Yes.

Adv: And as a result of what? Of your brake how did it happen?

Wit: Because she ran on me I didn't have chance because she ran. And because of her I fall down.

Adv: Yes and usually I don't drive a motorcycle, but I know how it works what did you do that eventually caused the motorcycle to skid and lose control when you saw her, what did you do?

Wit: When I saw her, I tried to stop, I pressed the brake, and even because of that I fell down and I mean, even I went on the pavement because of her, there was no traffic light, the traffic light was behind us, even where is the report that will be written where is exactly the place.

Adv: And on the other side where she was coming from was there something which you can recall?

Wit: There was cars there was a bus there was a lot of cars.

Adv: From mine nothing further.

Adv2: Cross, So this statement that you gave to the police reads a bit different from what you said,

Court: He was not given his legal rights, so I can't take it into.

Adv2: So in the area there are traffic lights, is that correct?

Wit: The traffic light is before from where we did accident, that. The traffic lights were behind us and she ran in between the cars and then onto him, The traffic light is behind us. It's not where we did the accident where we did the accident is exactly next to cemetry there is no traffic light next to cemetry.

Adv2: Xejn izjed.

Consideration of the Court

There is a clear conflict of evidence as to how the accident in question occurred and therefore there is not the level of proof beyond a reasonable doubt required in a Criminal Court. Therefore the accused is not guilty of any of the charges

Decide

For these reasons and after having seen Articles 226(1) (b) of Chap 9 S.L. 65.18 Art 36B and in S.L. 65.18 Sixth Schedule of the laws of Malta finds the accused Noor Ul Basar is not guilty of the charges.

Magistrate Dr Yana Micallef Stafrace LL.D.

Magistrate

Doris Serpina Sciberras

Deputy Registrar

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