



COURT OF CRIMINAL APPEAL

Hon. Mr. Justice Dr. Neville Camilleri
B.A., M.A. (Fin. Serv.), LL.D., Dip. Trib. Eccles. Melit.

Appeal Number 3047/2023/1

The Police

vs.

Ivan Scasni

Today 25th. of March 2025

The Court,

Having seen the charges brought against the appellant **Ivan Scasni**, holder of Identity Card Number 139720(A), charged in front of the Court of Magistrates (Malta) as a Court of Criminal Judicature with having on the 27th. of June 2022 between 16:15hrs and 16:30hrs in Santa Venera:

1. without the intent to kill or endanger the life of his wife Shiyu Scasni voluntarily caused harm to her body or health, an offence of minor nature and minor importance on her person

as certified by Dr. Marica Galea (Med Reg. Number 4121) from Mosta Health Centre;

2. uttered insults and/or threats provided for in this Code, or by being provoked carried his insults beyond the limit warranted by provocation of Shiyu Scasni;
3. without the intent to steal or damage against the law only to exercise the right to claim that he has it by his own authority, by changing the locks belonging to Shiyu Scasni and in possession of his property in one or another unlawfully or interfering in the affairs of others.

Having seen the judgment delivered by the Court of Magistrates (Malta) as a Court of Criminal Judicature on the 30th. of January 2025, wherein the Court, after having seen Articles 17, 31, 85, 214, 215, 221, 222(3), and 339(1)(e) of Chapter 9 of the Laws of Malta, whilst declaring the second (2nd.) charge as being time-barred and hence abstained from taking any further cognisance of it, found the accused not guilty of the third (3rd.) charge and hence acquitted him from the said charge, found the accused guilty of the first (1st.) charge brought against him and, after having seen Article 383 of Chapter 9 of the Laws of Malta, obliged the accused to enter his own recognisance in the sum of one thousand Euro (€1000) in order to provide for the safety of Shiyu Scasni and in order the retain the public peace, which recognisance were to be forfeited in favour of the Government of Malta if the accused failed to observe his obligations within a period of twelve months from the date of the judgment and were to be found guilty by a competent Court to have failed to observe these conditions as duly imposed upon him by the Court. The Court explained to the accused the significance of the judgment and the repercussions in the event of the breach of observance thereof where the accused confirmed that he understood same.

Having seen the appeal filed by the appellant on the 5th. of February 2025 by which he requested this Court to modify: *“the first judgement dated 30th. January 2025 in the sense that whilst*

confirming it where he was acquitted from the third charge and where the First Court abstained from taking further cognisance of the second charge on account of the fact that it was time-barred, proceeds to revoke that part of the judgment where he was found guilty of the first charge and instead acquits the appellant from the said first charge in toto."

Having seen all the acts and documents.

Having seen the Reply filed by the appellate Attorney General on the 3rd. of March 2025, which reply was filed as regards the appeal filed by the appellant.

Having seen the updated conviction sheet of the appellant exhibited by the Prosecution as ordered by the Court.

Having heard final oral submissions.

Considers

That this is a judgment regarding an appeal filed by the accused Ivan Scasni.

That the facts of this case concern an argument between the appellant and the injured party Shiyu Scasni (i.e. his wife) who are in the process of personal separation. It results that the appellant lives in an apartment situated in St. Venera whilst his wife lives in Attard. On the 27th. of June 2022 the injured party reported that at about 16.15hrs she went to Santa Venera, a property she said belonged to her, for the purpose of verifying if everything was well. According to her, when she tried to open the doors, she found that she could not and suspected that the locks had been changed by her husband. She explained that suddenly she was confronted by her husband (the appellant) who requested her to leave the property. She stated that when she refused, her husband offended her and grabbed her by her arm and pushed her and as a result she hit the door.

That the appellant rejected the allegations made by the injured party and confirmed that the locks had not been changed. The appellant also rejected the allegations that he had pushed his wife though he added that he took hold of her arm during the argument.

That before delving into the merits of this case, this Court reminds that it is a Court of revision and it does not replace the discretion of the First Court where it transpires that from the evidence presented the First Court could reach the conclusion it reached. In this respect, reference is made to the judgment delivered on the 2nd. of March 2021 in the names **The Police vs. Ahmed Ahmar Mohammed** (Number 283/2020), where the Court of Criminal Appeal stated that:

“Even if this court carries out an examination of what was said by each witness before the Courts of Magistrates the role of this court remains that of revision. In its ordinary function this court does not become one of retrial and thus does not hear the evidence brought forward again and decides the case afresh. The decision as to the guilt of the accused is taken by the Courts of Magistrates (Malta) as a Court of Criminal Judicature which is duty bound to analyse all the evidence and legal arguments brought forward so that it may reach its own conclusion.

This court, thus revises the judgment of the Courts of Magistrates by seeing if according to the evidence brought forward by the parties and the legal arguments debated before the first court are enough for the court to establish guilt as pronounced in its judgment. In order for this court to be able to carry out this exercise of revision this court has to examine thoroughly the evidence brought forward and analyse all the legal arguments brought forward and then move on to see as to whether on the basis of the evidence provided the first

court could reach the conclusion it did in the given judgment and ascertain that it is according to law.”

That having established the above, this Court will proceed to examine the grievances raised by the appellant. For all intents and purposes, it ought to be noted that in his appeal the appellant listed four grievances which will be dealt with together in this judgment since they are somehow related to each other.

Considers

That by means of his grievances the appellant complains that there is a conflict between the versions given by the parties and that such a conflict in the criminal field should benefit the accused since the burden of proof lies with the Prosecution. He explains that the medical certificate issued by the doctor of the Mosta Health Clinic gives more credit to him rather than the wife since it does not indicate any visible signs of physical abuse on the body of his wife but indicates what she was feeling. He continues that the version given by his wife is not reflected in the medical certificate. Finally he maintains that the comments by the First Court indicate a certain degree of reluctance in accepting his wife’s version of events and that in any case the cause of the said injury was certainly not proven beyond reasonable doubt.

That the Attorney General rebuts these grievances and says that the First Court had the opportunity to hear the witnesses and assess their credibility. Regarding the conflict in the version given by the appellant as opposed to that given by the injured party, the Attorney General states that it is up to the Court to believe which party to believe. Regarding the injuries sustained by the injured party, the Attorney General states that these are compatible with the testimony of the injured party and are not subjective. The Attorney General also refers to the testimony of the appellant whereby he indicates that he held the injured party by her hand. The Attorney General maintains that the sequence of events stated by the appellant is not clear and that this puts doubt on his credibility.

That this Court makes reference to a judgment delivered on the 15th. of December 2022 in the names **Il-Pulizija vs. Joseph Zammit** (Number 374/2022) where this Court as diversely presided stated the following:

“In oltre kif gie ritenut mill-Qorti fl-Appell Kriminali fis-sentenza fl-ismijiet **Il-Pulizija vs. Joseph Thorne**,¹ mhux kull konflitt fil-provi għandu awtomatikament iwassal għal-liberazzjoni tal-persuna akkużata. Imma l-Qorti, f’każ ta’ konflitt fil-provi, trid tevalwa l-provi u tasal għall-konkluzjoni tagħha.

F’dan il-kuntest, allura, l-akbar sfida li jkollhom il-Qrati fil-każijiet li jisimgħu hija li jiskopru l-**verita’ storika**; u dan peress li l-evidenza li tingieb mhux dejjem tkun veritiera. Xhud jista’ jkun konsistenti kemm fil-veritajiet, kif ukoll fil-gideb li jista’ jkun qieghed jgħid. U huwa għalhekk li jeżisti wkoll ir-reat ta’ spergħur. Il-Qrati ma għandhomx is-setgħa li jaqraw l-imħuħ tan-nies. Il-Qrati jippruvaw jifhmu xi jkollhom f’moħħhom, f’qalbhom u fil-kuxjenza tagħhom in-nies li jidhru quddiemhom biss mill-kliem li jgħidu u mill-egħmil tagħhom. Il-Qrati jridu jistrieħu biss fuq il-provi li jkunu ngiebu quddiemhom – cioè l-evidenza diretta jew l-evidenza indiretta.”

That reference ought also to be made to the judgment delivered on the 31st. of October 2022 in the names **Il-Pulizija vs. Clive Caruana** (Number 360/2018) where this Court stated the following:

“5. [...] Inoltre kif ritenut mill-gurisprudenza abbraccjata minn din il-Qorti, min ser jiggudika jista’ jemmen li-xhud f’kollox jew f’parti u jekk ma jemminx li-xhud f’parti mix-xiehda tiegħu ma jfissirx li ma jistax ikun emmnut f’parti oħra. Issa, l-ewwel Qorti, kienet fil-piena

¹ “Deciza fid-9 ta’ Lulju 2003 mill-Qorti tal-Appell Kriminali Sede Inferjuri ippreseduta mill-Imħallef Joseph Galea Debono.”

liberta' li tagħmel dan l-eżerċizzju u minkejja li sabet inkonsistenzi fil-fatti kif rakkontati mill-*parte civile*, xorta waħda emmnitha fil-parti li biha nkriminat lill-imputat."

That this Court has read in detail the acts of this case and notes that the First Court arrived to its conclusion on the basis of the fact that during his testimony given on the 8th. of November 2024 (*a fol. 47 et seq.*) the appellant stated that he grasped his estranged wife by the arm. This by itself was consonant to what has been certified by Dr. Marica Galea in the medical certificate (*a fol. 13*) released by her on the 27th. of June 2022. In particular, Dr. Galea indicated that the injured party was suffering from pain in her arm and in the said certificate she described the injuries as follows (*a fol. 13*): "*ħafifa, salv kumplikazzjonijiet.*"

That this Court is in agreement with the conclusion reached by the First Court and this after taking note of the versions given by both parties. In this respect, even though the versions of the parties might conflict on certain parts, the appellant himself states that he grasped his wife by the arm. In addition, this Court considers that despite there being a difference in versions this is not necessarily in favour of the appellant. In particular, as stated by the Attorney General and as stated above, it is up to the Court to decide whom to believe.

That taking into consideration what has been outlined above, this Court reaches the conclusion that the First Court could reasonably arrive to the conclusion it reached with the consequence that the grievances under examination are being rejected *in toto*.

Decide

Consequently, for all the above-mentioned reasons, this Court rejects the appeal filed by the appellant Ivan Scasni and confirms the judgment delivered by the First Court in its entirety provided that the time-frame established in the appealed judgment shall start to run from today.

Dr. Neville Camilleri
Hon. Mr. Justice

Alexia Attard
Deputy Registrar