



MALTA

CRIMINAL COURT

**HON. MR. JUSTICE
JOSEPH GALEA DEBONO**

Sitting of the 31 st January, 2007

Number 12/2006

**The Republic of Malta
Vs
Petko Dimitrov Krushkov**

The Court,

Having seen the bill of indictment no. 12/2006 against the accused Petko Dimitrov Krushkov wherein he was charged with:

1) After the Attorney General premised in the First Count of the Bill of Indictment that on the twenty fifth (25) December, two thousand and four (2004) at about eight in the morning (8am), Petko Dimitrov Krushkov entered the residence in St. Paul's Bay of his ex-girlfriend and found her in bed with another man. He had gone to her place armed with a knife and on finding her with another man, out of jealousy, he tried to kill her by stabbing her. That his intention was to kill or to put the life of Therese Cachia in manifest jeopardy. However, due to an accidental

cause independent of his will, including the medical treatment given, he did not succeed in his intent to kill Therese Cachia.

That by his actions Petko Dimitrov Krushkov did become guilty of the offence of attempted willful homicide that is, maliciously, with intent to kill another person or to put the life of such other person in manifest jeopardy, manifested such intent by overt acts, which were followed by a commencement of execution of the crime of willful homicide, which crime was not completed in consequence of some accidental cause independent of the will of the offender.

Wherefore, the Attorney General in the name aforesaid, accused the said Petko Dimitrov Krushkov guilty of the offence of attempted willful homicide, that is, maliciously, with intent to kill another person or to put the life of such other person in manifest jeopardy, manifested such intent by overt acts which were followed by a commencement of execution of the crime of willful homicide, which crime was not completed in consequence of some accidental cause independent of the will of the offender.

Demanded that the said accused be proceeded against according to law, and that he be sentenced to imprisonment for a term of not less than six years but not exceeding thirty years in accordance with the provisions of sections 41(1)(a), 211 and 533 of the Criminal Code or to any other punishment applicable according to the declaration of guilt of the said accused.

2) After the Attorney General premised in the Second Count of the Bill of Indictment that under the same circumstances indicated in the first count of the Bill of Indictment, that is on the 25th December, 2004, at about 8.00 a.m. in St. Paul's Bay, Petko Dimitrov Krushkov tried to kill his ex-girl friend Therese Cachia with a knife he had brought with him for the purpose. He was in possession of this cutting and pointed instrument without a licence from the Commissioner of Police. That by his actions Petko Dimitrov Krushkov did become guilty of the offence

of carrying a knife of any description with a pointed blade or any pointed instrument without a licence from the Commissioner of Police. Therefore, the Attorney General in the name aforesaid accused the said Petko Drimitrov Krushkov guilty of the offence of carrying a knife of any description with a pointed blade or any pointed instrument without a licence from the Commissioner of Police.

Demanded that the said accused be proceeded against, according to law, and that he be sentenced to a fine (multa) not exceeding fifty liri or to imprisonment for a term not exceeding three months and the forfeiture of the weapon in accordance with the provisions of sections 13(1) and 19 of Chapter 66 of the Laws of Malta or to any other punishment applicable according to the declaration of guilt of the said accused.

Having seen the verdict of the jury of today's date by which it found the accused by six (6) votes in favour and three (3) votes against not guilty of the charge of attempted willful homicide under the First Count but guilty of, with intent to commit a grievous bodily harm consisting of a bodily harm caused by any wound which penetrates into one of the cavities of the body on the person of Therese Cachia with a cutting or pointed instrument, manifesting such intent by overt acts which were followed by a commencement of the execution of the crime, which crime was not completed in consequence of some accidental cause independent of the will of the accused.

Having seen the verdict of the jury by which it unanimously found the accused guilty of the Second Count of the bill of indictment.

Now therefore the Court declares

1. Petko Dimitrov Krushkov not guilty of the First Count of the Bill of Indictment but guilty of having on the 25th December, 2004, at about 8.00 a.m., in St. Paul's Bay, with intent to commit a grievous bodily harm consisting of a bodily harm caused by any wound which penetrates into one of the cavities of the body on the person of Therese

Cachia with a cutting or pointed instrument, manifesting such intent by overt acts which were followed by a commencement of the execution of the crime, which crime was not completed in consequence of some accidental cause independent of the will of the convicted person.

2. Guilty of the offence of carrying a knife of any description with a pointed blade or any pointed instrument without a licence from the Commissioner of Police on the 25th of December, 2004, at about 8.00 a.m., in St. Paul's Bay, as stated in the Second Count of the Bill of Indictment.

Having heard and considered **ALL** submissions of Counsel for the Defence in the plea in mitigation of punishment which are duly recorded and in particular but not only the following :

1. that the convicted person is a first-time offender although he had been coming to Malta since 1999, as evidenced by the updated Criminal Conduct Sheet exhibited by the Prosecution today;

2. that the convicted person cooperated fully with the Police and went to the Police station after receiving a phone call from police officers requesting to do so and that in his verbal interviews with the Police as well as in his written statement, he admitted from the outset that it was he who stabbed the victim, albeit in the circumstances described by him, including the fact that he had consumed quantities of alcohol prior to the incident;

3. that the convicted person has already been held in preventive custody since the date of the incident and therefore he has already received sufficient punishment for his deed;

4. that this was not a case where the Court had to give an exemplary punishment as it related to a personal incident between two lovers in which the convicted person found his lover in bed with another man.

Having considered also the submissions of Counsel for the Prosecution namely :

that this was a case where the convicted person had illegally entered into the residence of another person armed with a knife and stabbed her with the said weapon and that, in line with decisions of this Court and the Court of Criminal Appeal, an effective term of imprisonment should be meted out to the convicted person in such cases.

Having considered that the convicted person faces a maximum sentence of imprisonment of three (3) years and six (6) weeks and a minimum punishment of one (1) month imprisonment and of a fine (multa) of ten Malta Pounds (LM10), for the crimes of which he was found guilty by the jury.

Having considered that the Court of Criminal Appeal in the case “The Republic of Malta vs Domenic Bonnici” [11.11.2004], held that punishment has the purpose of serving as a general deterrent and that physical violence, should, as a general rule, always incur a sentence of imprisonment with immediate effect, and this, more so, where arms are used, and that it is not tolerable that in a civil society a person should bear arms in breach of the law – whatever the reason for doing so (vide Criminal Appeal “The Republic of Malta vs. Noel Mizzi” [15.12.2005]).

Having considered that although the Court can understand the convicted person’s feelings on discovering that the person he considered to be his lover was in fact two-timing him and sleeping with another man, it still cannot condone his actions whereby he entered into her house by means of a key which he had kept without her consent, armed with a knife and stabbing her in a vital location of the body. It also cannot ignore the fact that had the blow not being cushioned and absorbed by the nature of the victim’s physique, the knife could have penetrated into one of the cavities of the body with the possibility of causing considerable bodily harm to the victim.

In these circumstances the Court feels that to do justice to the case it has to award the maximum punishment possible, albeit for the reduced criminal liability resulting from the jury's verdict.

For these reasons having seen the said verdict and sections 17(b), 41(1)(a), 216 (1)(c), 217, 23, and 533 of the Criminal Code as well as section 13(1) and 19 of Chapter 66 of the Laws of Malta, condemns Petko Dimitrov Krushkov to a term of imprisonment of three (3) years one (1) month and two (2) weeks from which shall be deducted any term during which the convicted person had been held in preventive custody and orders that the knife (exhibit no. 04DLZ304) be forfeited to the Government of Malta and further condemns the convicted person to pay to the Registrar of Courts the sum of one hundred and eighty six Malta Liri and five cents (LM 186.05c) by way of all Court expenses incurred in connection with this case.

Finally, the Court orders that a copy of convicted person's testimony given in the course of this trial, wherein he alleged that he had bribed or attempted to bribe passport officials in order to facilitate and ensure his re-entry into Malta between February and May 2004, should be served upon the Commissioner of Police for further investigation and, if possible, the pressing of charges against all persons involved in this alleged illegal activity.

< Final Judgement >

-----END-----