



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

**MAGISTRATE DR.
EDWINA GRIMA**

Sitting of the 9th February, 2009

Number. 774/2007

**The Police
(Inspector Therese Sciberras)**

VS

Stephen Aquilina having 42 years of age, son of Salvu and Sonia nee' Clayton, born in Pieta on the 15 July 1965 and holder of Maltese identity card number 346265(M) and residing at Kingsland Block A Apartment 8A Barnaba Street, St. Paul's Bay.

The Court,

Having seen the charges brought against the accused, being charged for having on the night between the 7th and the 8th of September 2007 sometime between 20:00hrs

and 4:00hrs in Qawra, St. Paul's Bay without intent to kill or to put the life of any person that is of Keith Caruana in manifest jeopardy, caused the mentioned Keith Caruana harm to his body which bodily harm is considered as grievous as certified by Dr. A. Camilleri MD Reg no. 3008 from the Mosta Health Centre.

Having seen the documents exhibited and all the acts of the proceedings

Having heard the evidence.

Having seen the consent of the Attorney General for the case to be dealt with summarily in terms of Article 370(4) of the Criminal Code

Having heard the accused declare that he has no objection to the case being tried summarily by this Court.

Considers,

The accused is being charged with causing grievous bodily harm to a certain Keith Caruana. The Court however did not have the opportunity to hear the evidence of the victim since the said victim failed to appear several times before the Court to give his testimony. Therefore in passing judgment the Court has only the evidence of the accused himself and his girlfriend Kabir Sandhu before it, who both give the same version of the facts.

From their evidence it is clear that the argument between the accused and the victim resulted from a simple request by the accused and his girlfriend for smaller plates whilst they were having a pizza at Angelo's Restaurant in Qawra, where the victim Caruana works as manager of the said premises. From their testimony, it results that instead of acceding to their request, the manager refused to comply with their wishes and ordered them to leave the restaurant. When accused refused to do this, it results that the victim pushed the accused, and by way of retaliation, the accused punched Keith Caruana in the

face thus causing him a lacero-contused injury under his left eye of about three centimeters in length.

The nature of the injury was confirmed by Dr. Aloisia Camilleri who was on duty at the Mosta Health Centre on the date of the incident and who medicated Caruana. It results both from the medical doctor's evidence before the Court and from the medical certificate issued by the said doctor that the patient refused to have sutures administered. The witness declares that on that day she classified the injury as of a greivous nature due to the possibility of the injury remaining a permanent scar in the face. However the witness did not see the patient again after this day and was therefore not in a position to declare whether the said scar is still visible and whether it will be of a permanent nature. As already pointed out the victim Keith Caruana never testified and consequently, the Court has no evidence before it as to the nature of the injuries suffered by the victim, and this as to whether the said injury is of a permanent nature and consequently whether it can be classified as greivous according to law.

That from the evidence tendered before the court it results amply proven, and this even upon admission by the accused himself, that the accused punched Keith Caruana on the face and as a consequence of this gesture the victim suffered an injury being a lacero-contused wound of about three centimeters under his left eye. The prosecution however has failed to proof beyond reasonable doubt whether the injury sustained by the victim is of a greivous nature. This is being stated because the medical doctor who assisted the victim on the day of the incident was not in a position to state whether the scar is a permanent one or whether it has healed.

The accused therefore can only be found guilty of causing an injury of a slight nature to the person of Keith Caruana and this in terms of Section 221 of Criminal Code.

Consequently, after having seen article 221 of the Criminal Code, the Court finds the accused Stephen

Informal Copy of Judgement

Aquilina guilty of causing bodily harm of a slight nature only to the person of Keith Caruana and condemns him to pay a fine of one hundred euro (€100)

< Final Judgement >

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