

Kopja Informali ta' Sentenza



**QORTI TAL-MAGISTRATI (MALTA)
BHALA QORTI TA' GUDIKATURA KRIMINALI**

**MAGISTRAT DR.
GIOVANNI GRIXTI**

Seduta tas-26 ta' Mejju, 2011

Numru. 778/2004

**The Police
(Inspector Victor Aquilina)**

vs

Caroline Debattista

The Court;

Having seen the accusation brought against **Caroline Debattista** aged 34 years, wife of Godfrey, daughter of Thomas McCalaum born in Scotland on the 16th September, 1970, and residing at No.67, St..Paul's Court, Gulju Street, St. Paul's Bay holder of passport no 704976257 issued in the United Kingdom (GBR) on the

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22nd July 2004 and valid until 22nd Jult 2014 and holder of identity card no 17260(A);

With having on 1st July, 2004, at 10:00pm in these islands in Salina;

Wilfully committed any spoil, damage or injury to or upon any movable or immovable property belonging to Godfrey Debattista holder of identity card no 262162(M), which amount of the damage does not exceed five hundred liri but exceeds fifty liri;

Furthermore, with the object of destroying or damaging the reputation of Godfrey Debattista, offended such person by words;

Furthermore, though in a state of intoxication, publicly uttered any obscene or indecent words, or made obscene acts or gestures, or in any other manner not otherwise provided for in the Criminal Code, offended against public morality, property or decency;

Furthermore, in any manner not otherwise provided in the Criminal Code, wilfully disturbed the public good order or the public person;

Furthermore, in any public place or place open to the public was found drunk and incapable of taking care of herself, or in any public place or place open to the public, being in charge of a child under the age of seven years, or of any vehicle, was manifestly in a state of intoxication, or being in such a state caused any annoyance or disturbance;

Furthermore, with uttering, insulting or threatening not otherwise provided for in the Criminal Code, or being provoked carried her insult beyond the limit warranted by the provocation;

Having seen the consent of the attorney general for this case to be tried summarily and the no objection of the accused for use of the same procedure;

Having heard all evidence;

Having seen the records of the case;

Considered that:

This case dates back to the year 2004 when the complainant Godfrey Debattista made a report to the police that his wife, with whom he was undergoing separation proceedings, had wilfully damaged his car and caused other inconveniences as described in the charge as appears above. The complainant testified that on the 1st of July 2004 at around 10pm his wife, accompanied by her friend Carol, appeared in front of his house and his wife started swearing and shouting at him. She returned to her car and was given something by her friend, went into the driveway of the underlying garages, where the complainant owns two garages, and her friend jumped into the driver's seat. The complainant descended to the garages and saw his wife slashing the soft-top of his car but did nothing to stop her and phoned the police. He later saw his wife coming out of the garage area which was very dark and drove off, noting that her car had been turned in the opposite direction in the meantime. The complainant produced a quotation for the replacement of the soft-top costing then three hundred and fifty malta liri and estimate for the replacement of four tyres which he said were slashed by the accused. Said complainant stated that he had already changed the tyres but had not yet paid for them and that the slashed ones are still in his possession. He also produced two photographs showing soft-top said to be of his car slashed in two areas;

The accused denies all the above and confirms that on the day she called at her husband's house at around 8pm subsequent to many of his phone calls reminding her to call for her and her childrens' clothes. She did so after her friend Karen went over to mind her children. She did not find any clothes waiting for her so she descended into the garage area to see whether they were left there but to no avail and went to asked the complainant what he was

playing at. She denied causing any damage. The accused confirmed being accompanied by her friend and under cross-examination denied that her friend had driven the car round simply because she is disabled.

Having considered that there was absolutely no evidence of the accused being in a drunken state, the Court need deliberate no further on this aspect and on all the charges concerning her alleged drunken state. Furthermore, the complainant exhibited two photos of his slashed soft-top but did not exhibit a photo of the four slashed tyres or the tyres themselves and with regard to these tyres, the Court is faced with a situation where the alleged provider of the estimate marked Dok VA2, recognizes only complimentary chit of his company but states that he, being the person responsible for estimates, does not issue estimates in such manner and cannot recognize the signature thereon. The Court is also faced with a situation where the complainant could have produced his wife's friend to testify but he did not and is therefore left with two completely different versions between a couple in the process of separation. At this point, the Court is bound to apply its discretion to see which version of events is most credible. That by the complainant is not corroborated by any witnesses or any other facts. On the contrary, the facts seem to work against the version of the complainant in that the garage area was very dark as confirmed by both parties. The slashes on the soft-top, being two in number and very small, do not portray the doings of an angry person limiting himself or herself to two relatively small slashings. The representative of the Director of Licenses testified that the car registration plates had been surrendered on the 28 of October 2004 meaning that it was not being used by the owner who stated that he had to change the tyres for new ones;

The Court, having considered the above, deems that the evidence is conflicting to the extent that it can not find against the accused and for this reason finds the accused not guilty and acquits her of all charges.

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< Sentenza Finali >

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