



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

**MAGISTRATE DR.  
AUDREY DEMICOLI**

Sitting of the 21<sup>st</sup> June, 2013

Number. 722/2009

**Police  
Inspector Frankie Sammut**

**vs**

**Michael Patrick O' Meara**

The Court,

Having seen that the accused Michael Patrick o' Meara of 61 years of age, son of the late Patrick Joseph and Elizabeth nee' Baron, born in Colombo, Sri Lanka on the 28<sup>th</sup> of July, 1947 and currently residing in premises No: 44, Flt No. 3, Triq il-Mandragg, Vittoriosa and holder of I.D. card No: 0037940(A) was arraigned before it and charged with:

Having on the 1<sup>st</sup> of July, 2009, at around 8.25p.m., whilst in his residence, which is situated at No. 44, Flat no 3,

Triq il-Mndragg, Vittoriosa, caused injuries of a grievous nature on Lawrence Ciantar from Vittoriosa, which injuries have been certified by Dr. Lara Attard M.D., the doctor on duty at the Paola Health Centre and which injuries may cause a deformity or disfigurement on the face.

Having seen all the acts of the proceedings including the Attorney General's Note of Consent dated 27<sup>th</sup> July 2009 (exhibited at. folio 17 of the proceedings) for this case to be heard summarily and decided by this Court..

Having heard the accused declare that he has no objection that this case is heard summarily and decided by this Court.

Having heard the final submissions made by the Prosecution and the Defense Counsel.

Having considered:

The facts of this case are briefly as follows. On the 1<sup>st</sup> July 2009 at around 8.25pm the alleged victim Lawrence Ciantar was carrying out some works in the washroom of his sister's residence in Triq il-Mandragg Birgu and whilst he was drilling a hole in a dividing wall in the said washroom he realized that he had drilled right into the neighbour's property, i.e. the accused's property. The alleged victim maintains that the accused deliberately pushed a metal broomstick right through the hole which he had just drilled and hit him in the eye thereby causing grievous injuries. Dr. Lara Attard who gave evidence on the 3<sup>rd</sup> March 2010 said that Lawrence Ciantar had a small lacerated contused wound of around 0.5 cm beneath the right eyelid but she did not recall whether any sutures were administered. She also said that she did not see the patient again and explained further that the only reason that she indicated that the injury was grievous was because it was on the face.

The alleged victim Lawrence Ciantar gave evidence during these proceedings on two occasions, i.e. on the 8<sup>th</sup> January 2010 and on the 6<sup>th</sup> May 2010 whereby explained that on the date in question he was drilling a hole in his

sister's property with a jigger when suddenly he saw the accused's feet passing by the hole which he had just drilled. The witness indicated that the diameter of the hole which he had drilled was around one foot in width. Lawrence Ciantar alleged that he looked through the hole and said hello and when he looked through it a second time he saw the accused pushing a metal broomstick through the said hole and then hit him in the eye. The witness said that he then went outside and he heard the accused say that he was making a fuss because he only had some blood on his face. Ciantar said that he then went to the policlinic where the wound was sutured.

The accused gave evidence during the sitting held on the 27<sup>th</sup> September 2012 whereby he explained that on the day in question he had been out all day and when he returned home in the evening he heard sounds of drilling coming from the adjoining property and he thereby decided to listen to some music to avoid hearing the din made by the drilling. At a certain point he stopped listening to music and went out on his balcony and realized that the drilling works had stopped. The accused explained that when he walked back into his apartment he noticed that there was dust on the floor and he saw a small hole in the dividing wall. The accused says that he picked up a plastic handle which was nearby and which he had found on his property some days before which he thought had been accidentally dropped by the neighbours and which he had meant to drop back but did not do so. Patrick O'Meara says that he put the plastic handle slowly through the hole and more rubble came out and he then continued pushing it slowly through and let it drop to the other side. The accused says that when the plastic handle went through the wall he felt absolutely no resistance on the other side and he definitely did not hit anyone. He also explained that two days after this incident the Police came over to his house and when they asked whether he had pushed something through the hole he replied in the affirmative since he thought that they were asking about the plastic handle which he had dropped on to the other side. The accused also explained that he saw a metal nick in the wall and he thinks that Lawrence Ciantar was

actually injured with this metal nick after he lost control of the driller whilst drilling the hole.

It is evident that the Court has two distinct and conflicting versions of the facts. The Court after having heard both parties give a verbal recount of what happened on the day in question and after having read and reread the transcribed versions of their evidence is thoroughly convinced that the version of events given by the accused is the one that reflects what actually occurred on the date in question. The Court could not fail to note certain inconsistencies in the alleged victim's recount of events as for example when he said that the accused told him that he was making a fuss and he only had some blood on his face when he had previously indicated that he had absolutely no knowledge of the English language. This Court fails to understand how the alleged victim could have put his eye to the hole and seen the accused move about in the dark and seen him push the metal stick through the said hole. The Court deems that in this case the Prosecution failed to prove to a level of beyond reasonable doubt that the accused had either voluntarily or involuntarily caused any injuries to Lawrence Ciantar. The accused is therefore going to be declared not guilty of the charge brought against him.

For the abovementioned reasons the Court is hereby declaring the accused not guilty of the charges brought against him and is consequently acquitting him from the said charges.

**< Final Judgement >**

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