



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

**MAGISTRATE DR.
IAN FARRUGIA**

Sitting of the 2nd September, 2013

Number 833/2013

**The Police
(Inspector Alexander Millo)**

Vs

John Barclay Calvert

The Court,

Having seen the charges brought against John Barclay Calvert, 39 years, son of Robert and Jane nee` Dunn, born in England, on the 03rd of September 1973, residing at Flt 2, Rockland, Triq it-Torri, Sliema, holder of identity card number 61260A;

Accused of having on the 07th of August 2013 at about 07:00 in the evening in Tower Road, Sliema:

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1. Without the intent to killing or to put the life of any person in manifest jeopardy, caused grievous injuries on the person of Anthony William Patrick Spicer as certified by Dr Julian Sammut Alessi reg no5396 of Mater Dei hospital;
2. Attempted to use force against Anthony William Patrick Spicer with the intent to insult, annoy or hurt him, unless the fact constitutes some other offence under any other provision of this Code (chap 9);
3. In any manner not otherwise provided for in this Code, (chap 9) wilfully disturbed the public order or the public peace.

Having seen Article 392A of Chapter 9 of the Laws of Malta;

Having seen all the documents exhibited in the acts of these proceedings;

Having heard prosecuting officer on oath;

Having heard accused plead guilty to all charges brought against him during the arraignment on the 27th of August 2013 and his insistence on such guilty plea after being given time according to law;

Having heard submissions by the prosecution and the defence regarding punishment;

Considers;

That in view of the accused's guilty plea to all charges proffered against him, and since there is no reason emanating from these proceedings why this Court should not accept such plea, it is the duty of this Court to proceed with judgement and declare the accused guilty as charged.

Considers;

That as regards to the facts of the case, this Court was presented with one version, that of the prosecution, which was in no way contested by the accused. During the sitting of the 27th August 2013, prosecuting officer Inspector Alexander Millo, under oath, explained the circumstances which led to this case. On the 7th of August 2013, at around 19.00hrs, the accused approached the area of a kiosk situated in front of the Preluna Hotel, Tower Road, Sliema. At one point, the accused hit Anthony William Patrick Spicer with a glass bottle which smashed on his face. At that time, Mr. Spicer was in the company of a polish national, Katarzyna Gajewska. They were together having a drink. In this incident, Mr. Spicer suffered grievous injuries as certified by Dr. Julian Sammut Alessi as per document 'AM3'. It is alleged that accused was deeply in love with the said Katarzyna Gajewska.

Considers;

That in their final submissions on punishment, the prosecution observed that the application of the provisions of a suspended sentence would be sufficient; however this should be a harsh one in view of the fact that the accused needs to understand the duty to respect the law and that he needs to address his drinking problem. The defence, in its submissions, was in agreement with the prosecution and further argued that the Court is to consider the benefits of an early plea of guilt, that the accused has no previous convictions, that in what he did, the accused was motivated by passion (although it acknowledged that such motivation is in no way an excusable factor), and that the accused should be spared effective imprisonment and the emphasis should be on his rehabilitation from his drinking problem.

Considers;

That in the context of punishment or sanction to be meted out to the accused, the Court is taking into consideration the following resulting factors, but not only, (1) that the accused pleaded guilty to all charges at the earliest

opportunity in these proceedings, (2) that he does not have regular employment or any other legitimate source of income, (3) that he does not have a fixed address here in Malta, and above all (4) **the heinous nature of the crime committed and admitted to by the accused. The way and manner in which he manifested and executed his passion is, to say the least, unacceptable in any civilised part of the world. An aggression, a violent act against a human being, and the infliction of grievous bodily harm, with no excusable factors in the equation, must be addressed with an effective punishment – a punishment which will make the aggressor realise that such behaviour is not tolerated. Except for the guilty plea, the accused did not express any form of remorse for his actions, especially when one can conclude that his attack on Mr. Spicer was unprovoked. Society needs to be protected. Justice is to be done.** With all due respect to their efforts in the discharge of their respective duties, this Court does not agree with both the prosecution and the defence in their claim that the best sanction in this case would be the provision of a suspended sentence.

In view of the above, it is this Court's opinion that, having regard to all the circumstances of the case, the nature of the offences and the character of the accused, it is expedient to inflict an effective prison term.

THEREFORE, THE COURT, having seen Articles 214, 215, 216, 218, 339(1)(d), 338(dd) and 17 of Chapter 9 of the Laws of Malta, finds and declares offender John Barclay Calvert guilty of all charges brought against him and condemns him for a term of imprisonment of eighteen (18) months.

The Court orders that the acts of these proceedings together with a copy of this judgement be transmitted to the Attorney General in terms of Article 392A (2) of the Criminal Code.

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< Final Judgement >

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