



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

**MAGISTRATE DR.
IAN FARRUGIA**

Sitting of the 27 th August, 2013

Number 838/2013

**The Police
(Inspector Trevor Micallef)**

Vs

**Christopher Szulc
Cid Erik Joel Fredholm
Andreas Mikael Hammarberg
Amir Saleh**

The Court,

Having seen the charges brought against **Christopher Szulc** son of Kryzysztof and Magdalena nee' Pawlowska born in Sweden on the 31st July 1993 residing at Valley View Appartments, Flat 1, Mensija Street, St. Julians and holder of Swedish passport number 63250712; **Cid Erik Joel Fredholm** son of Mikael and Monica nee' Ahlgren born Sweden on the 30th June 1991, residing at Valley

View Appartments, Flat1, Mensija Street, St. Julians and holder of Swedish passport no. 85292878; **Andreas Mikael Adde Hammarberg** son of Bengt and Maritha nee' Fransson born Sweden on the 09 ta' January 1990 residing at Valley View Appartments, Flat 1, Mensija Road, St. Julians and holder of Swedish passport no. 82758458; **Amir Saleh** son of Ziad and Eva nee' Parmback, born Sweden on the 06th August 1992, resides at Valley View Appartments, Flat 1, Mensija Street, St. Julians and holder of Swedish identity card no. 71241453;

All accused of having in these Islands, on the 24th August 2013, in St. Julians :

1. Without the intent to kill or to put the life in manifest jeopardy, caused grievous bodily harm on the person of Hans Erik Peter Markstrom.(Article 216, 218 Chapter9);

2. Accuse them further for having on the same date, time, place and circumstances at night time, disturbed the repose of the inhabitants by rowdiness or bawling, or in any other way. (Art. 338 (m) Chapter 9);

Accused Cid Erik Joel Fredholm alone for having :

3. Without the intent to kill or to put the life in manifest jeopardy, caused slight bodily harm on the person of Rebecca Sophie Edelsvard Nilsson. (Article 221 Chapter 9);

Accused Christopher Szulc alone for having :

4. Without the intent to kill or to put the life in manifest jeopardy, caused slight bodily harm on the person of Sebastian Anders Nilsson;

Accused Amir Saleh alone for having :

5. On the 26th August 2013 and the previous days threatened Hans Erik Peter Markstrom and Rebecca Sophie Edelsvard Nilsson.(Article 339 (1)(e) Chapter 9);

6. Accused him further for having on the same periods by means of electronic communications network or apparatus whilst on the Maltese Islands, forwarded insults and threats to Hans Erik Peter Markstrom and Rebecca Sophie Edelsvard Nilsson by words and made improper use of such (Cap. 399 art. 49(c));

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 all four accused plead guilty to all charges brought against them during the arraignment today the 27th of August 2013 and their insistence on such guilty plea after being given time to reconsider according to law;

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

Considers;

That in view of the guilty plea made by all four accused to all the charges proffered against them, 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 all the accused guilty as charged.

Considers;

That as regards to the facts of the case, this Court was presented with the version of the prosecution, which was not contested by any of the accused due to their guilty plea. During the sitting of the 27th August 2013, prosecuting officer Inspector Trevor Micallef, under oath, explained the circumstances which led to this case. Most accused and victims appear to have known each other

through their relative employment. At one point it transpired that there was a problem between Amir Saleh and Rebecca Sophie Edelsvard Nilsson regarding an alleged conviction (or some kind of criminal conduct) which Mr. Saleh could have had in Sweden, which matter could in turn have had a bearing on his employment here in Malta. Somehow or other, Rebecca Sophie Edelsvard Nilsson was told that she could go to the apartment to meet up with Amir Saleh regarding the said issue. On the 24th of August 2013, some time around 21.30hrs – 22.00hrs, Rebecca Sophie Edelsvard Nilsson, together with her brother and her boyfriend Hans Erik Peter Markstrom, went to the apartment and as soon as they went in, all four accused, and possibly another two people who have not been identified, started a physical assault on Rebecca Sophie Edelsvard Nilsson and Hans Erik Peter Makstrom. According to the prosecuting officer, the said assault must have been a substantial one given that the injuries suffered by Hans Erik Peter Markstrom were classified as grievous by Dr. Imed Ben Moussa. Rebecca Sophie Edelsvard Nilsson suffered slight injuries during the said assault. According to the prosecution, there must have been the influence of alcohol on both sides.

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 need to understand the duty to respect the law. 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 acts of these proceedings present all four accused as first time offenders, that unfortunately, this incident was compounded by the influence of alcohol from both sides (a fact which the defence acknowledges is in no way an excusable factor but is a factor which helps to have a situation precipitate into an unpleasant situation, to say the least), that most of the accused have regular employment, and that in line with all this, the accused

should be spared effective imprisonment and the emphasis should be on their understanding that such incidents should not be repeated and that the law and order should be respected.

Considers;

That, as has been confirmed in various occasions by our Courts of Criminal Jurisdiction, a guilty plea at an early stage of the proceedings does not automatically entitle the accused to a reduction in punishment. Furthermore, any form of understanding between defence and prosecution about a possible sanction at law, does not in any way hinder the court's discretion and duty when it comes to the infliction of punishment.

That in the context of punishment or sanction to be meted out to the accused, the Court is taking into consideration the following factors, but not only, (1) that the offence of causing grievous bodily harm, is undoubtedly considered as a very serious offence and unless there are reasons or circumstances showing otherwise, the offence of causing grievous bodily harm should attract an effective prison sentence (2) that all four accused pleaded guilty to all charges at the earliest opportunity in these proceedings, (3) that all four accused are to be treated, procedurally, as first time offenders, (4) that the case presented to the court shows that all four accused (who were under the influence of alcohol themselves – a state which must have fuelled the situation) acted cowardly towards an individual who was in a drunken state and who was more in need of understanding and help rather than a good lesson in physical violence. All four accused should be ashamed of their actions and behaviour.

Another determining factor in the context of punishment is that regarding the nature of the injuries sustained by Hans Erik Peter Markstrom, with particular reference to the medical certificate issued by Dr. Imed Ben Moussa. It is to be observed, with all due respect, that there is nothing that indicates to this court that it has to declare that the injuries sustained give rise to the application of the

provisions of Article 218 of the criminal code; and consequently the court will have to apply the provisions of Article 216 of the criminal code.

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, the injuries sustained and the character of the accused, it is inexpedient to inflict an effective prison term. Although a sentence of imprisonment is appropriate, the Court is empowered and has a moral inclination, to invoke the provisions of a suspended sentence in terms of Article 28A of Chapter 9 of the Laws of Malta. In doing this, the Court is convinced that it is legitimately using one of the tools at law which enables it to deliver Justice in the circumstances.

THEREFORE, THE COURT, having seen Articles 214, 215, 216, 221, 338(m), 339(1)(e) and 28A of Chapter 9 of the Laws of Malta, and Article 49(c) of Chapter 399 of the Laws of Malta finds and declares offenders guilty of all charges as brought against them and condemns each one of them for a term of imprisonment of two (2) years but orders that, in terms of Article 28A of Chapter 9 of the Laws of Malta, this sentence does not take effect unless, during the period of four (4) years from today, the offenders commit another offence punishable with imprisonment. Furthermore, in terms of Article 383 of Chapter 9 of the laws of Malta, since it is expedient to provide for the safety of Hans Erik Peter Markstrom and Rebecca Sophie Edelsvard Nilsson and for the keeping of the public peace, the Court hereby orders and binds the offenders for a term of twelve months from today under a penalty of two thousand Euros (€2000) each.

The Court, in terms of Article 28A(4), explained to the offenders, in ordinary language, their liability under Article 28B if during the operational period of four years they commit an offence punishable with imprisonment.

The Court orders that the acts of these proceedings together with a copy of this judgement be transmitted to

Informal Copy of Judgement

the Attorney General in terms of Article 392A (2) of the Criminal Code.

< Final Judgement >

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