MALTA

QORTI TAL-MAGISTRATI (MALTA)

MAGISTRAT DR.
FRANCESCO DEPASQUALE

Seduta tal-11 ta' Novembru, 2013

Avviz Numru. 197/2011

Brigitte Vassallo (ID 473863M)
vs
Kurt Farrugia (ID 91982M)

Illum 11 ta' Novembru 2013

Il-Qorti,

Rat ir-rikors ippresentat fil 21 ta' Gunju 2011 fejn ir-rikorrenti ghamlet referenza ghall-ahbarjiet imxandra fuq ONE TV fis 19.30 tat 28 ta' Mejju 2011 u talbet dina l-Qorti sabeix tiddikjara illi l-allegazzjonijiet li saru fil-konfront taghha kienu foloz u malafamanti u libelluzi fil-konfront taghha u ghalhekk talbet lill-Qorti tikkundanna lill-intimat, bhala editur ta' l-istazzjoni, thallasha danni.

L-intimat, fl-14 ta' Ottubru 2011, ressaq id-difiza tieghu fejn stqarr illi t-talbiet attrici kienu infondati fil-fatt u fid-dritt peress illi jikkonsisti f'rappurtagg gurnalistiku dwar kwistjonijiet ta' interess pubbliku u il-kummenti li sar f'tali rappurtagg kienu jikkonsistu f'fair comment. L-intimat jishaq ukoll illi kieku l-attrici riedet tirrimedja ghall-

inezattezi li ntqalu, setghet titlob retifika li izda qatt ma saret.

Semghet ix-xhieda tar-rikorrenti **Bridget Vassallo** moghtija fl 14 ta' Novembru 2011.

Semghet ix-xhieda ta' **Clive Bonello**, Staff Nurse gewwa id-Dar ta' l-Anzjani tal-Mellieha, moghtija fl 14 ta' Novembru 2011.

Semghet ix-xhieda ta' **Emanuel Bezzina**, Manager tan-Nursing Services gewwa id-Dar ta' l-Anzjani tal-Mellieha, moghtija fl 14 ta' Novembru 2011.

Semghet ix-xhieda ta' **Sonia Stewart**, Receptionist gewwa id-Dar ta' l-Anzjani tal-Mellieha, moghtija fis-6 ta' Frar 2012.

Semghet ix-xhieda ta' **Raymond Azzopardi**, Security gewwa id-Dar ta' l-Anzjani tal-Mellieha, moghtija fis-6 ta' Frar 2012.

Semghet ix-xhieda tal-**PC 532 Mark Farrugia** moghtija fis-6 ta' Frar 2012.

Semghet ix-xhieda ta' **Sylvana Pace**, Segretarja gewwa id-Dar ta' l-Anzjani tal-Mellieha, moghtija fis-27 ta' April 2012.

Semghet ix-xhieda ta' **Donald Vella**, moghtija fis-27 ta' April 2012.

Semghet ix-xhieda ta' **Marianne Sciberras**, Nurse gewwa id-Dar ta' l-Anzjani tal-Mellieha, moghtija fis-27 ta' April 2012.

Rat illi fis 27 ta' April 2012 ir-rikorrenti iddikjarat illi ma kellhiex aktar provi x'tippresenta.

Rat illi fil 25 ta' Gunju 2012 il-Qorti kienet infurmata mill-intimat li kienu qed jippruvaw jilhqu transazzjoni.

Rat illi fis 26 ta' Ottubru 2012 il-Qorti giet infurmata mir-rikorrenti illi transazzjoni ma sehhietx u ghalhekk il-kawza kienet differita ghal provi intimat.

Rat illi fit 18 ta' Jannar 2013 u fil 15 ta' April 2013, l-intimat ma deherx u ma gew ippresentati ebda provi.

Rat illi fil 15 ta' April 2013 il-kawza giet differia ghat 12 ta' Lulju 2013 ghas-sentenza.

Rat illi fit 12 ta' Lulju 2013 il-kawza giet differita ghas-sentenza ghat 30 ta' Settembru 2013.

Rat illi fit-30 ta' Settembru 2013 il-kawza giet differita ghas-sentenza ghalllum.

Ikkunsidrat

Illi l-kawza odjerna tirrigwarda rappurtagg illi sar fuq l-ahbarjiet ta' ONE News fit 28 ta' Mejju 2011, jigifieri dakinhar illi kien hemm ir-Referendum dwar jekk kellhux jigi introdott jew le id-Divorzjoni f'Malta, f'liema rappurtagg gie allegat illi r-rikorrenti, bhala Supervisor tad-Dar tal-Anzjani tal-Mellieha, kienet qed tipprova tinfluwenza lill-anzjani li kien hemm billi theggighom sabiex jivvutaw kontra d-divorzju.

L-artikolu ossija rappurtagg illi ittella fuq l-ahbarjiet ta' dakinhar tar-referendum qal illi l-Puluzija kienu qed jinvestigaw kaz ta' prattici li jiksru il-Ligi Elettorali wara rapport li sar kontra r-rikorrenti. Tali rapport kien li, fil-pusizzjoni taghhom, kienet qed tinfluenza lill-anzjani. Sabiex jikkorroboraw tali asserzjoni, ir-rapportagg isemma recording ta' telefonata ma' iben wahda mill-anzjani, fejn dana jallega illi l-gurnata ta' qabel, fis-6.30 ta' filghaxija, wara li ommu kienet kielet, dina ltaqghet gewwa r-reception flimkien ma anzjani ohra u giet avvicinata mir-rikorrenti flimkien ma' nurse ohra fejn heggewhom sabiex jivvutaw kontra d-divorzju. Dana il-persuna kompla jallega illi anke dakinhar stess, meta kellu jsir il-vota, baqa' jsir influwenza u pressjoni fuq l-anzjani.

Ir-rappurtagg jiddeskrivi lir-rikorrenti bhala "*mart il-kanditat u ex-kunsullier Nazzjonalista Nicholas Vassallo, kugina tal-mara ta' Edgar Galea Curmi, l-assistent personali tal-Prim Ministru*".

Ikkunsidrat

Fil-kawza odjerna, il-Qorti hija rinfaccjata biss bil-provi prodotti mir-rikorrenti peress illi l-intimat naqas, ghal diversi drabi, milli jressaq ebda tip ta prova favur tieghu, u ghalhekk il-Qorti hija kostretta illi tgharbel l-provi migjuba mir-rikorrenti minghajr il-beneficcju illi tikkontrastaha mal-provi ta' l-intimat.

Ikkunsidrat

Ir-rikorrent stqarret illi hija Manager tad-Dar ta' l-Anzjani gewwa il-Mellieha, li hija dar immexxija taht programm ta' public-private partnership. Hija stqarret illi l-gurnata ta' qabel ir-referendum, jigifieri fis 27 ta' Mejju 2011, hija kienet hadet gurnata 'off' peress illi kellha xi qadjiet personali x'taghmel. Ghalhekk, dakinhar hija ma kienetx id-Dar ta' l-Anzjani u qatt ma marret hemm dakinhar. L-ghada, imbghad, 28 ta' Mejju 2011, jigifieri dakinhar tar-Referendum, hija marret ix-xoghol u dahhlet kmieni peress illi kien hemm madwar tletin persuna anzjana illi kellhom jivvutaw 'l barra mil-Mellieha, u ghalhekk, kellhom jittiehdu b'trasport appositu u dana kien kollu origanizzat minnha flimkien man-Nurses illi jahdmu hemm.

Peress illi kien hemm hafna anzjani fil-home, u li uhud minnhom kellhom problemi serji mentali, dakinhar tar-referendum, kien hemm rappresentant tal-Kummissjoni Elettorali presenti flimkien ma' zewgt rappresentanti taz-zewt partiti politici, jigifieri Partit Laburista u Partit Nazzjonalista. Dawna kienu qed jiehdu hsieb illi jivverifikaw il-vot ta' kull persuna anzjana li kienet tigi tivvota.

Jirrizulta illi mument minnhom, wiehed mill-anzjani illi ghandha tnejn u disghin sena marret biex tigbor il-vot u ma kienetx taf x'kienet qed tigbor u ghal xiex. Dak il-hin ir-rikorrenti, li kienet hemm presenti tassisti lir-rappresentanti, staqsiet lill-anzjana jekk riedetx tivvota u dina baqghet ma fehmet xejn. Kien ghalhekk ir-rikorrenti ippruvat terggha tispjega lill-anzjana dwar il-fatt li kien referendum dwar id-divorzju, u, meta rat li xorta ma fehmet xejn, qaltilha illi kull ma kellha taghmel huwa li tivvota iva jew le dwar id-divorzju. Tali spjegazzjoni wasslet ghall reazzjoni negattiva tar-rappresentant tal-Partit Laburista, certu Michael Buttigieg, illi beda jghajjat u jipprotesta u hareg il-barra.

Jirrizulta illi mument minnhom, wara li hareg dan Buttigieg, dahal persuna illi r-rikorrenti hasbitha rappresentant tal-Partit Laburista, u li attwalment kien persuna li minghajr permess kien dahal biex ha lill-ommu, li tghix fil-home, tivvota. Sussegwentement dahhlu ukoll rappresentanti tal-kamp li kien qed jippromuovi ir-referendum b'vot posittiv, inkluz Evarist Bartolo u Jeffrey Pullicino Orland. Hi hasbet illi dawna l-persuni kollha kienu dahhlu bhala rappresentanti izda sussegwentement saret taf li kienu dahhlu biex jirrappurtaw dwar dana l-incident li kien inqala. Dana saret tafu ghax giet infurmata li l-gurnalisti li kienu barra kienu qed jirrappurtaw fuq il-mezzi tax-xandir illi kien inqala xi problema il-Mellieha u giet infurmata dwar dan minn xi anzjani u nurses illi kienu hemm kif ukoll, sussegwentement, mis-superjuri taghha stess. Kien ghalhekk illi hija telqet minn hemm sabiex taghmel xi telefonati in vista ta' dana l-incident u halliet f'idejn is-segretarja taghha.

Ikkunsidrat

Jirrizulta illi, fir-rappurtagg illi sar u li huwa meritu tal-kawza odjerna, filwaqt li kien hemm filmat tad-dar ta' l-anzjani tal-Mellieha illi fiha intweriet il-vettura tar-rikorrenti ipparkjata fil-parkegg tad-Dar, jinstema persuna tghid illi huwa jigi t-tifel ta' wahda mill-anzjani illi toqghod go tali Dar u giet persuna li identifikaha bhala ir-rikorrenti kif ukoll nurse ohra u avvicinat lill-anzjani li kien hemm, fil-gurnata

qabel ir-Referendum, u qaltilhom biex jivvutaw kontra d-Divorzju. Dana sahaq ukoll illi anke dakinhar tar-Referendum, filghodu, sar l-istess waqt li l-anzjani kienu qed jiehdu l-breakfast.

Fl-istess rappurtagg, qabel ma tinstema tali intervista nal-persuna illi baqghet anonima, jinghat illi l-Puluzja qed jinvestigaw prattici li jmorru kontra l-ligi elettorali illi sehhew gewwa d-Dar ta' l-Anzjani fil-Mellieha mir-rikorrenti, fejn hija kienet qed tipprova tinfluwenza lill-anzjani. Dina l-istorja tkompli tghid illi r-rappresentanti tal-Moviment IVA kienu lmentaw dwar dan mar-rappresentant tal-Kummissjoni Elettorali illi eventwalment ha l-passi li kellu jiehu.

Fl-ahhar tar-rappurtagg, wara illi jinstema l-persuna anonima u dak minnu allegat, jintqal illi r-rikorrenti hija mart il-kandidat u ex-kunsilleri Nazzjonalista Nicholas VAssallo u hija kugina tal-mara ta' Edgar Galea Curmi.

Ikkunsidrat

Illi, kif gia qalet il-Qorti, hija biss rinfaccjata bil-provi tar-rikorrenti peress illi l-intimat naqas milli jivvanta mid-dritt tieghu milli jressaq il-provi tieghu, u dana peress illi kellu aktar minn tlett seduti sabiex iressaq provi u qatt ma ressaq ebda prova kif ukoll qatt ma deher quddiem il-Qorti.

Mill-provi kif prodotti, jirrizulta illi ir-rikorrenti, fil-gurnata ta' qabel ir-Referendum, kellha gurnata "off duty" u ma kienetx gewwa id-Dar ta' l-Anzjani tal-Mellieha peress illi kienet lestiet l-affarjiet kollha li kellha bzonn ghar-Referendum li kien ser jinzamm l-ghada u kienet marret taghmel xi qadjiet personali taghha. Dana kien ikkonfermat kemm mir-rikorrenti stess kif ukoll mill-varji xhieda illi hija pproduciet.

Jirrizulta wkoll illi dakinhar tar-Referendum, hija kienet qed tassisti it-tlett persuni li kienu qed jiehdu hsib li jqassmu l-voti lill 150 anzjana illi kien hemm gewwa l-home, li kienu

jinkludu rappresentant tal-Kumissjoni Elettorali kif ukoll rappresentant taz-zewgt kampi tal-vot, dawk li kienu favur, li kellhom rappresentant tal-Partit Laburista, u dawk li kienu kontra, li kellhom rappresentant tal-Partit Nazzjonalista.

Jirrizulta wkoll illi, matul tali process, f'mument minnhom, kien hemm anzjana ta' 92 sena illi ma kienetx qed tifhem ghal xiex kienet ser tivvota meta ir-rappresentant tal-Kummissjoni Elettorali qralha id-domanda twila tar-Referendum u, mument minnhom, meta ir-rikorrenti rat illi dina l-persuna me kienet qed tifhem xejn, qaltilha li kull ma kellha taghmel huwa li tghid Iva jew Le fil-vot, ir-rappresentant tal-Partit Labrista oggezzjona bil-qawwa u hareg il-barra jilmenta ghax sahaq li ir-rikorrenti ma kienetx semmiet id-domanda kollha tar-Referendum, izda semmiet biss Iva jew Le. Dana wassal biex eventwalment dahhlu rappresentanti tal-Partit Laburista, inkluz Jeffrey Pullicino Orland, sabiex jilmentaw dwar tali fatt.

Kif stqarret ir-rikorrent stess, ir-rappresentant tal-Kummissjoni Elettorali qal illi, ghalkemm ma ghamlet xejn hazin, hi messha qalet id-domanda kollha lill-anzjana u mhux tghid biss li wiehed ghandu jivvota Iva jew Le. Apparti minn hekk, ma kien gara xejn hazin, kif del restro stqarr ukoll il-Puluzija illi kien qieghed jassisti fuq il-post u li ra kollox isehh.

Ikkunsidrat

Illi l-kaz odjern huwa kaz car ta' sitwazzjoni li zviluppat f'mument kritiku tal-kampanja tar-referendum dwar id-Divorzju, ossija dakinhar tar-referendum stess, u li kien rizultat ta' kampanja qalila u kombattuta bejn zewgt fronti opposti illi kienet tmur oltre il-kwistjoni tar-referendum, peress illi kellha anke konnotazzjonjiet politici fiha wkoll.

Tali kaz, ukoll, huwa riflessjoni cara ta' l-atmosfera illi tkun tirrenja f'tali sitwazzjonijiet, fejn, it-tensjoni tkun oghlja hafna u tkun tista twassal ghall incidenti, kemm serji, kif ukoll pwerili bhal dak fil-kaz odjern, u li eventwalment

iwassal sabiex sitwazzjoni tkun tista twegga lill-persuni involuti, kemm fizikament kif ukoll, bhal fil-kaz odjern, emozzjonalment. Dana qieghed jinghad ghax jirrizulta car li, fil-kaz odjern, li kwistjoni zghira bhal dik li inqalghet meta anzjana ta' 92 sena, illi tbaghti mid-dementia, ma setghetx tifhem il-portata ta' domanda komplessa li kien hemm fir-referendum, twassal sabiex persuna li ma hijiex figura pubblika tissemma b'mod dispreggjattiv fil-media, certament jista jitqies bhala ferita emozzjonali fuq tali persuni, fejn ir-reputazzjoni qieghda tigi attakata.

Apparti minn hekk, mhux talli r-rappurtagg jirreferi ghar-rikorrenti b'isimha, izda jghaddi biex jispjega l-konnessjonijet tar-rikorrent fejn tghid illi tigi l-mara ta' kandidat nazzjonalista u kugina tal-mara ta' Edgar Galea Curmi, dak iz-zmien Assistent Personali tal-Prim Ministru ta' dak iz-zmien, Dr Lawrence Gonzi, illi kien kontra il-vot tar-Referendum.

Ikkunsidrat

Ir-rwol tal-media u l-gurnalizmu, kif ukoll id-dritt illi jirrappurtaw stejjer gurnalistici ta' interess pubbliku filwaqt illi jigu ssalvagwardjati id-drittijiet tal-persuna gia kienu suggett ta' hafna kazistika, kemm lokali kif ukoll Europeja. Di fatti, kif qalet il-Qorti Ewropea tad-Drittijiet tal-Bniedem fil-kawza Fresos & Roire vs France

"the press plays an important role in a democratic society, although it must not overstep certain bounds, in particular in respect of reputation and rights of others. People exercising freedom of expression including journalists undertake duties and responsibilities."

Tali tghalim gie anke ri-affermat mill-Qorti Maltij meta, fil-kawza **Caruana v. Mifsud**, deciza fl-24 ta' Settembru 2004, intqal:

"Il-liberta` ta' espressjoni m'hijiex xi licenzja li wiehed ighid li jrid minghajr kontroll. Id-dritt invokat mill-appellant huwa suggett ghal certu kundizzjonijiet. Hekk per ezempju, fil-kaz Bladet Tromso and Stensaas v. Norway (20 ta' Mejju 1999) il-Qorti Ewropeja tad-drittijiet tal-Bniedem esprimiet ruhha hekk:

"Article 10 of the Convention does not, however, guarantee a wholly unrestricted freedom of expression even with respect to press coverage of matters of serious public concern. Under the terms of paragraph 2 of the article the exercise of this freedom carries with it "duties and "responsibilities", which also apply to the press. These "duties and responsibilities" are liable to assume significance when, as in the present case, there is a question of attacking the reputation of private individuals and undermining the "rights of others"...by reason of "duties and responsibilities" inherent in the exercise of the freedom of expression, the safeguard afforded by Article 10 to journalists in relation to reporting on issues of general interest is subject to the proviso that they are acting in good faith in order to provide accurate and reliable information in accordance with the ethics of journalism." (para 65)

Fil-kawza PETRENCO v. MOLDOVA deciza mill-Qorti Ewropeja tad-Drittijiet tal-Bniedem fit-30 ta' Marzu 2010, il-punt dwar id-dritt tal-liberta ta' l-espressjoni u d-doveri tal-gurnalist reggha gie emfasizzat meta qalet

"The Court reiterates that freedom of expression constitutes one of the essential foundations of a democratic society and that the safeguards afforded to the press are of particular importance. Although it must not overstep certain boundaries, in particular in respect of the reputation and rights of others, its duty is nevertheless to

impart – in a manner consistent with its obligations and responsibilities – information and ideas on all matters of public interest. Not only does the press have the task of imparting information and ideas, the public also has a right to receive them. Were it otherwise, the press would be unable to play its vital role of "public watchdog" (see, inter alia, Observer and Guardian v. the United Kingdom, 26 November 1991, § 59, Series A no. 216; Bladet Tromsø and Stensaas v. Norway [GC], no. 21980/93, § 59, ECHR 1999-II; and Flux v. Moldova (no. 6), no. 22824/04, § 24, 29 July 2008). Accordingly, journalistic freedom covers possible recourse to a degree of exaggeration, or even provocation (see Von Hannover v. Germany, no. 59320/00, § 58, ECHR 2004-VI). In this respect, it is clear from the Court's case-law that the right to freedom of expression is applicable not only to information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no "democratic society" (see, inter alia, Handyside v. the United Kingdom, 7 December 1976, § 49, Series A no. 24; and Nilsen and Johnsen v. Norway [GC], no. 23118/93, § 43, ECHR 1999-VIII). This freedom is subject to the exceptions set out in Article 10 § 2, which must, however, be construed strictly. The need for any restrictions must be established convincingly (see, for example, Lingens v. Austria, 8 July 1986, § 41, Series A no. 103; Nilsen and Johnsen, cited above, § 43; and Tammer v. Estonia, no. 41205/98, § 59, ECHR 2001-I)."

L-istess intqal fil-kawza CHAUVY AND OTHERS v. FRANCE decizja mill-istess Qorti fit-29 ta' Gunju 2004, fejn intqal illi:

Freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and each individual's self-fulfilment. Subject to paragraph 2 of Article 10, it is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no "democratic society". As set forth in Article 10, this freedom is subject to exceptions, which must, however, be construed strictly, and the need for any restrictions must be established convincingly.

Tali pusizzjoni hija u ghadha l-pusizzjoni illi tabbraccja il-Qorti Europeja tad-Drittijiet tal-Bniedem illi recentement, fil-kawza Delfi AS vs Estonia decizja fl-10 ta' Ottubru 2013, sahqet illi

"...... the Court reiterates the essential function the press fulfils in a democratic society. Although the press must not overstep certain bounds, particularly as regards the reputation and rights of others and the need to prevent the disclosure of confidential information, its duty is nevertheless to impart – in a manner consistent with its obligations and responsibilities – information and ideas on all matters of public interest (see Jersild v. Denmark, 23 September 1994, § 31, Series A no. 298; De Haes and Gijsels v. Belgium, 24 February 1997, § 37, Reports of Judgments and Decisions 1997-I; and Bladet Tromsø and Stensaas v. Norway [GC], no. 21980/93, § 58, ECHR 1999-III). In addition, the Court is mindful of the fact that journalistic freedom also covers possible recourse to a degree of exaggeration, or even provocation (see Prager and Oberschlick v. Austria, 26 April 1995, § 38, Series A no. 313, and Bladet Tromsø and Stensaas, cited above, §

59). The limits of permissible criticism are narrower in relation to a private citizen than in relation to politicians or governments (see, for example, Castells v. Spain, 23 April 1992, § 46, Series A no. 236; Incal v. Turkey, 9 June 1998, § 54, Reports of Judgments and Decisions 1998-IV; and Tammer v. Estonia, no. 41205/98, § 62, ECHR 2001-I)."

F'dan l-istadju, il-Qorti thoss illi ghadha taghmel referenza ghal sentenza importanti li inghata mill-Qrati Maltin illi marret pass ferm il-quddiem illi tipprotegi d-drittijiet tal-gurnalist, ossija il-kawza **Dr. Louis Galea vs Dr. Joe Mifsud** deciza mill-Prim Awla fit-23 ta' Marzu, 2009, fejn dina qalet:

"f'kawzi bhal prezenti, u cioe f'kawza ta' libell, hemm bilanc li ghandu jinzamm bejn id-dritt f'socjeta' demokratika li wiehed jghid u jesprimi ruhu u jsemmi l-opinjoni tieghu bl-aktar mod liberu u bejn id-dritt ta' kull cittadin li jgawdi reputazzjoni u l-isem tajjeb tieghu u dan dejjem fl-isfond ta' socjeta demokratika."

Tali tghalim gie abbracjat mill-Qorti tal-Appell li imbghad, fl-istess kawza deciza fit-3 ta' Frar, 2012 wara appell intavolat, ziedet tghid li

"gurnalizmu investigattiv ghandu jinghata ampja protezzjoni f'socjeta' demokratika, anke jekk certi allegazzjonijiet jigu michuda minn dak milqut, il-gurnalist dejjem jibqalghu d-dritt li jinvestiga u jistharreg fuq allegazzjoni anke jekk tibqa' allegazzjoni mhux pruvata kif trid il-Ligi. F'dak li jsir gurnalizmu investigattiv serju, anke meta jirrizulta zball genwin, jista' wkoll ikun tollerat."

Ikkunsidrat

Fil-kawza odjerna, huwa car u minghajr ebda dubju illi r-rappurtagg illi sar ma kellu ebda zball genwin fih illi setgha ghamel l-intimat peress illi jirrizulta li dak li intqal u allegat mill-intimat kien rizultat ta' informazzjoni allegata minn terzi persuna li baqghet anonima, li ma kien korroborat u investigat b'ebda mod mill-istess intimat, u li jidher car li kienet ibbazata fuq informazzjoni qarrieqa moghtija fi zmien fejn it-toni politici vigenti kienu shan hafna. Jirrizulta wkoll illi l-intimat, sabiex jaghmel hsara cara lir-rikorrenti, mhux biss allega li hija kienet qed tipprova tinfluwenza lill-anzjani, izda ha hsieb illi jgharraf lill-kullhadd illi tali persuna kienet mart kanditat Nazzjonista u kugina tal-mara ta' persuna illi kienet fil-mira kostanti tal-Partit Laburista, jigifieri Edgar Galea Curmi.

Il-Qorti ma tistax ma tirrilevax illi, filwaqt li huwa d-dover tal-gurnalist illi jinforma lill-pubbliku b'dak kollu li kien qed jigri dakinhar tar-Referendum, huwa ukoll dover tal-gurnalist illi jassikura li ma jwassalx informazzjoni qarrieqa intiza unikament sabiex issahhan aktar l-irjus u tpingi lill-persuna f'dawl negattiv bi hsara kbira lir-reputazzjoni taghha. F'mumenti bhal dawn, bhalma huma Elezzjonijiet Generali u Lokali u referendum ohra, il-gurnalist ghandu rwol importanti hafna u ghandu jgharraf jibbilancja bejn id-dover tieghu li jgharraf lic-cittadin b'dak li qed jigri mad-dover tieghu illi ma jinstigax lic-cittadin inutilment u jassikura li l-paci pubblika tigi protetta. Rappurtagg bhal dak li sar da parte ta' l-intimat certament ma' jikkreax dak il-bilanc mixtieq u, di piu, jattakka ir-reputazzjoni ta' persuna privata, bhalma kienet ir-rikorrenti, li kienet qieghda taghmel ix-xoghol taghha, kif suppost, izda li kellha opinjoni differenti minn dik ta' l-intimat u ghalhekk, skond dak li deher li ghamel l-intimat, kellha tigi attakata u malfamata biex tigi skreditata mal-pubbliku in generali.

Konkluzjoni

Il-Qorti

Wara illi rat il-provi kollha prodotti u semghet lix-xhieda tal-partijiet

Tghaddi biex taqta u tiddeciedi billi

Tichad l-eccezzjonijiet kollha ta' l-intimat u

Tilqa it-talbiet attrici u ghalhekk tiddikjara illi r-rappurtagg imxandar fuq ONE TV fis 7.30pm tat 28 ta' Mejju 2011 kien libelluz u malafamanti fil-konfront tar-rikorrent, u ghalhekk

Tikkundanna lill-intimat sabiex, a tenur tal-Artikolu 28 tal-Kap 248 tal-Ligijiet ta' Malta, ihallas lir-rikorrent in linea ta' danni is-somma ta' elfejn u hames mitt Euro (€2,500).

Spejjez kollha tal-proceduri odjerni ikunu a kariku tal-intimat.

< Sentenza Finali >

--------------------------------TMIEM--------------------------------