MALTA

QORTI TAL-MAGISTRATI (MALTA)

BHALA QORTI TA' GUDIKATURA KRIMINALI

MAGISTRAT DR.

ANTONIO MICALLEF TRIGONA

Seduta tat-2 ta' April, 2014

Numru 98/2014

Il-Pulizija

(Spettur Trevor Micallef)

vs

Mahdi Ourfell

Il-Qorti,

Rat l-imputazzjonijiet migjuba kontra l-imputat residenti Hal-Far bin-numru tal-Pulizija 13MH-024, akkuzat talli:

1. fis-26 ta' Jannar 2014 f'xi hin bejn il-5.00am u l-5.30am b'xi mod li jkun xjentement ghen jew assista lill-awtur tad-delitt ta' serq aggravate fl-atti li bihom id-delitt kien gie ippreparat jew ikkunsmat b'dan li l-awtur tad-delitt ikkommetta serq ta' oggetti ghad-detriment ta' Roberta Manouisiadou u/jew persuna ohra liema serq huwa aggravate bil-valur li ma jeccedix 2329.37 euro u bil-hin;
2. ikkommetta reat matul il-perjodu operattiv ta' sentenza sospiza moghtija mill-Qorti ta' Malta, liema sentenza saret definittiva u ma tistax tigi mibdula;

3. fl-istess perjodu ta' zmien u cirkostanzi f'dawn il-Gzejjer irrenda ruhu recidiv ai termini tal-Artikolu 49 u 50 tal-Kap 9 tal-Ligijiet ta' Malta wara li gie misjub hati b'diversui sentenzi moghtija mill-Qrati ta' Malta liema sentenzi saru definittivi u ma jistghux jigu mibdula;

Rat in-nota tal-Avukat Generali sabiex il-kawza tinstema' sommarjament, mhux opposta;

Semghet ix-xhieda;

Rat l-atti u d-dokumenti kollha;

Ikkonsidrat:

L-akkuza principali tikkoncerna l-komplicita' f'serq ta 'handbag' u l-oggetti ta' go fih fosthom cellulari tal-valur ta' circa sitt mitt euro. Is-serq sar bi hsara ta' certa Roberta Maniciado gewwa 'night club' jismu 'Native' f'Paceville. Hi tghid li l-imputat kien ma iehor, kien hu li qaghad ma gemba waqt li l-iehor pogga l-gakketta tieghu fuq il-basket taghha u telaq bih. Sihbitha, certa Samantha Omanovic, kienet aktar grafika fid-deskrizzjoni tal-akkadut tant li l-Qorti ser tirriproduci testwalment mix-xhieda taghha. Qalet: "we were standing between the bar and the table where my bag was under my jacket but my friend's was not because it was slightly bigger and they passed us by. They pushed me while they passed and that is why I noticed them. They had a look around and came back and stood behind us. And they ordered their drinks. I was aware that they were there but since I was talking between the four of us friends, I just realized at one moment his friend who had a hat on behind me, just folded his jacket over my friend's bag and took off. In that moment I turned around to my friends and said her bag is gone, he took her bag".

Intant, fil-waqt li huwa inkontrastat li kienet il-persuna l-ohra u mhux l-imputat li hataf il-basket u telaq bih (sal-lum dan ghadu injot), huwa l-imputat li jinsab akkuzat b'komplicita' fil-kaz in meritu billi xjentement ghen jew assista lill-awtur f'dan ir-reat ta' serq. Izda, ghall-konvicju tieghu jehtieg li jintwera li l-ghajnuna jew assistenza tkun attiva u li jintwera li kien hemm ftheim bejn l-awtur qua l-halliel, u l-imputat qua komplici. Jidher li f'dan il-kuntest il-prova li fuqa strahet il-prosekuzzjoni huwa filmat (esebit f''pen drive) li l-Qorti ivvisjonat. Frankament, ma innotat xejn li jnissel konvinciment morali fiha li l-imputat kellu b'xi mod x'jaqsam mas-serqa jew anka li huwa kien jaf biha jew li kien fthem ma siehbu fit-twettieq taghha. Fic-cirkostanzi hi tal-fehma li ghandha treggi c-cahda tal-imputat fuq daqshekk u dan sa mill-bidu nett tal-arrest tieghu minn fuq il-lok stess fejn hu baqa. Naturalment, mhux il-kaz li l-imputat jinstab hati fuq is-semplici fatt li f'dak il-mument kien mal-halliel.

Fuq dan fuq intqal l-Qorti tiddecidi li l-provi ma jwasslux ghall-konvicju b'daqstant li konsekwentement ma jissistux l-akkuzi l-ohra fir-rigward ir-recidiva.

Tiddecidi ghalhekk li tillibera lill-imputat mill-imputazzjonijiet.

< Sentenza Finali >

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