



MALTA

**COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE
MAGISTRATE DR. GABRIELLA VELLA B.A., LL.D.**

**Police
(Inspector Nikolai Sant)
vs
Enis Cetin
Serhat Bilginer**

Today, 20th March 2016

The Court,

After having seen the charges brought against Enis Cetin, twenty four (24) years of age, born on the 3rd May 1991 in Turkey, son of Recep and Munise neè Yildirim, residing at 2267, A2, Garden View Complex, Triq is-Sidra, Swieqi, and holder of Turkish Passport Number U11168422, **and** against Serhat Bilginer, twenty four (24) years of age, born on the 8th January 1992 in Turkey, son of Esref and Turkan neè Yenilmez, residing at 2270, A1, Garden View Complex, Triq is-Sidra, Swieqi, and holder of Turkish Passport Number U11373162, of having on the 19th March 2016 at around 04:30 hours in St. Julians or in the vicinity:

1. Without the intent to kill or to put the life in manifest jeopardy, caused grievous bodily harm on the person of Daniel Perez Hernandez and this in breach of Article 216 of Chapter 9 of the Laws of Malta;
2. And further on the same date, time, place and circumstances, took part in an accidental affray and caused bodily harm on the person of Daniel Perez Hernandez and this in breach of Article 237(b),(c),(d) of Chapter 9 of the Laws of Malta;
3. And further on the same date, time, place and circumstances, provoked a tumult or an affray for the purpose of committing a homicide or a bodily harm to the detriment of Daniel Perez Hernandez and this in breach of Article 238(b) of Chapter 9 of the Laws of Malta;
4. And further on the same date, time, place and circumstances, wilfully disturbed the public good order or the public peace and this in breach of Article 338(dd) of Chapter 9 of the Laws of Malta;

After having seen all the documents submitted by the Prosecution;

After having heard both accused plead guilty to the charges brought against them and this also after the Court, in terms of Section 453(1) of Chapter 9 of the Laws of Malta, warned them in the most solemn manner of the legal consequences of their guilty plea after having given them sufficient time within which to reconsider and withdraw their guilty plea;

After having heard the submissions regarding punishment and in particular after having heard the Prosecution declare that the first charge and second charge brought against both the accused are alternative to each other and that the Prosecution and Defence agree that in the circumstances of this case the imposition of a suspended sentence on both of the accused would be an adequate punishment;

Considers:

Both the accused are being charged with having on the 19th March 2016 at around 04:30 hours in St. Julians or in the vicinity: (a) without the intent to kill or to put the life in manifest jeopardy, caused grievous bodily harm on the person of Daniel Perez Hernandez and this in breach of Article 216 of Chapter 9 of the Laws of Malta; (b) and further on the same date, time, place and circumstances took part in an accidental affray and caused bodily harm on the person of Daniel Perez Hernandez and this in breach of Article 237(b),(c),(d) of Chapter 9 of the Laws of Malta; (c) and further on the same date, time, place and circumstances provoked a tumult or an affray for the purpose of committing a homicide or a bodily harm to the detriment of Daniel Perez Hernandez and this in breach of Article 238(b) of Chapter 9 of the Laws of Malta; and (d) further on the same date, time, place and circumstances wilfully disturbed the public good order or the public peace and this in breach of Article 338(dd) of Chapter 9 of the Laws of Malta.

Each one of the accused pleaded guilty to the charges brought against them.

In view of guilty pleas registered by each one of the accused, in view of the declaration by the Prosecution that the first and second charges brought against the accused are alternative to each other and in view of the facts which result from the documents submitted by the Prosecution, especially the statements given by each one of the accused, the Court, whilst abstaining from considering the first charge brought against the accused, finds each one of the accused guilty of the second, third and fourth charges brought against them.

In so far as concerns punishment the Court took into account the fact that both accused registered a guilty plea at an early stage of the proceedings and that they both co-operated with the Police. It also took into account the fact that the Prosecution and the Defence agree that in the circumstances of this

case the imposition on each of the accused of a suspended sentence would be an adequate punishment.

Therefore, whilst having seen and considered Articles 31, 218(b), 237 (b), 238(b) and 338(dd) of Chapter 9 of the Laws of Malta, the Court, whilst reiterating that it is abstaining from considering the first charge brought against the accused and finding each one of them guilty of the second, third and fourth charge brought against them, condemns each one of the accused to a term of one (1) year imprisonment. However, since the Court is of the opinion that in this case there are sufficient reasons which warrant that the said term of one (1) year imprisonment be suspended with regard to each one of the accused, in terms of Section 28A of Chapter 9 of the Laws of Malta and with regard to each one of the accused, suspends the said term of one (1) year imprisonment imposed on each one of them for a period each of one (1) year from date of this judgment.

In terms of Section 28A(4) of Chapter 9 of the Laws of Malta the Court explained to both the accused in ordinary language their individual liability under Section 28B of Chapter 9 of the Laws of Malta, if during the operational period of this suspended sentence either one of them commits an offence punishable with imprisonment.

MAGISTRATE

DEPUTY REGISTRAR