

**Court of Magistrates (Malta)
As A Court of Criminal Judicature**

Magistrate Dr. Claire L Stafrace Zammit B.A. LL.D.

**The Police
[Inspector Luke Bonello]**

-vs-

Alice Mary Regan

Case Number: 836/13

Today, the 26th of September, 2016

The Court,

Having seen that the accused Alice Mary Regan, holder Identity Card Number of 39249A

Was charged with having on the 25th of August 2013 at about 07:00am and during the following hours, whilst being in St. Julian's;

1. Reviled, or threatened, or caused bodily harm to any person lawfully charged with a public duty, while in the act of discharging their duty or because of them having discharged such duty, or with intent to intimidate or unduly influence them in the discharge of such duty
2. Furthermore, with having on the same date, time, place and circumstances, assaulted or resisted by violence or active force not amounting to public violence, any person lawfully charged with a public duty when in the execution of the law or of a lawful order issued by a competent authority.
3. Furthermore, with having on the same date, time, place and circumstances, without intent to kill or to put the life of Pc 132 Keith Sultana in manifest jeopardy caused the mentioned Pc 132 Keith Sultana slight injuries as certified by Dr. David Grima holder of medical register number 5355.

4. Furthermore, with having on the same date, time, place and circumstances, used force against Pc 132 Keith Sultana with intent to insult, annoy or hurt him or others
5. Furthermore, with having on the same date, time, place and circumstances, wilfully disturbs the public good order or the public peace;
6. Furthermore, with having on the same date, time, place and circumstances, disobeyed the lawful orders of any authority or of any person entrusted with a public service.
7. Furthermore, with having on the same date, time, place and circumstances, was found drunk and incapable of taking care of herself.

Seen that the accused pleaded not guilty to the charges brought against her;

Seen the note of renvoi of the Attorney General dated the twelfth (12) of February two thousand and fourteen (2014) whereby it was asked that this court finds guilt under these articles of the law namely:

- a. Sections 214, 221(1) and 222(1) and 222(1)(c) of chapter 9 of the Laws of Malta;
- b. Sections 95 and 96(a) of chapter 9 of the Laws of Malta;
- c. Sections 338(dd), (ee) and (ff) and 339(d) and (e) of chapter 9 of the Laws of Malta;
- d. Sections 17, 31 and 533 of chapter 9 of the Laws of Malta.

Having seen that the accused had no objection that this court continues hearing and decides these proceedings;

Having seen her conviction sheet and her statement before the initiation of these proceedings;

Considers that this incident broke up because of an alleged altercation between the accused's friend, a certain Henri Sant Cassia the morning of the twenty fifth (25) August two thousand and thirteen (2013) in Triq Elia Zammit, Paceville with third parties. Accused was present at the fight and when the police went to intervene she allegedly hit PC 132 Keith Sultana.

In fact **PC 132 Keith Sultana** in his evidence of the sixteenth (16) of September two thousand and thirteen (2013) stated that when he went to stop the fight Henri Sant Cassia and the accused were both aggressive towards him and when he asked them their particulars they both refused, but after a while the accused gave him her passport. He recalled that the accused punched him in the face and on the back after she tried to enter the police vehicle where Mr Sant Cassia was being escorted to the police office. He recalled also that they were acting strangely and he thought they were drunk.

PS 848 Laurence Gabriel in his testimony of the sixteenth (16) of September two thousand and thirteen (2013) states that he witnessed all the incident and recalled also that when the accused was arrested and was taken to the police station, she laid on the pavement and soon after dropped again also on the floor in the police station. Soon after they called an ambulance so that she would be escorted to Mater Dei hospital.

This version of events was also confirmed by officers PC 1372 Aaron Cutajar and by PC 593 Raphael Attard Flores.

Heard evidence of Dr. Anthony Galea Debono for defence who is a consultant neurologist and confirmed in his testimony of the fourth (4) of April two thousand and sixteen (2016) that the accused suffers from epileptic seizures from the year two thousand and eleven (2011) and also stated that ***“she was described as a tonic clonic seizure, what we call a granmall seizure, which is the usual type of epileptic attack that one sees, where people lose consciousness, they start flinging their arms and legs and they bite their tongue often, they are incontinent to urine, bite their tongue, and then after a few minutes they tend to star recovering consciousness, but they would be rather confused for a period of time which we call the postictal state. And during that stage very often people get aggressive. . . . and if spoken to or touched they may well become very violent”.***

Heard evidence of the accused Alice Mary Regan whereby she confirmed the statement given to the police dated twenty seventh (27) August two thousand and thirteen (2013) marked as Dokument LB1.

Furthermore heard evidence of David Pollina whereby he confirmed that he had known accused from shortly after the incident and that she has been

living with him ever since. He confirmed that the accused suffers from epilepsy and described all the various stages recalled by Dr. Galea Debono whereby he experienced them himself and stated also that he himself had suffered various times hits from the accused at the post epic stage where she would be so confused and terrified that the least movement would be seen like a threat for her. He also confirmed that the accused is not a drinker and if she drinks only a minimum amount of alcohol would result as a trigger for an epileptic fit. He also concluded that her memory loss may result from a day to various days after a particular fit.

Consideres further that it had been amply established that the accused suffers from epileptic fits from way back before the incident in question. Because of these fits she is driven in a state of confusion and terror so much that if she is touched and spoken to can lead to an aggressive mode towards the person addressing her. This was amply shown by Dr. Anthony Galea Debono who is a respected and well known neurologist and who has seen the accused for a number of years. This ties completely with the version given by the accused in her statement in that had suffered an epileptic fit shortly before the coming of the police on the spot of the incident and that she doesn't remember what had happened. But she was frank enough that she admitted that if she did something wrong she apologised to the police officer in question.

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Therefore the defence managed to instil in the mind of the Court a reasonable doubt that at the moment of the incident the accused was not mentally fit and consequently was not capable of understanding what was right or what was wrong and was unable to control her actions and this due to her condition.

Furthermore the prosecution failed to produce the medical report of the accused when she was admitted to hospital after she was taken to the police station in order to verify the version of events stated by the accused.

On the above basis and considerations finds accused **Alice Mary Regan** not guilty of the charges brought against and acquits her from all of them since they were not proven.

Dr Claire L Stafrace Zammit B.A. LL.D.
Magistrate