Fil-Qorti tal-Magistrati (Malta)
bhala Qorti ta' Gudikatura Kriminali

MAGISTRAT DR FRANCESCO DEPASQUALE

Seduta ta' nhar t-Tnejn erbgha u ghoxrin (24) ta' Lulju 2017

Libell Nru 1/12

Il-Pulizija
(Spett Robert Vella)
vs

Saviour Balzan (ID 127263M)
u
Mark Anthony Vella (ID 408874M)

Il-Qorti,

Rat l-akkuzi migjuba kontra l-kwerelati Saviour Balzan u Mark Anthony Vella fid 9 ta' Jannar 2012 fejn gew akkuzati:

1. Billi intom akkuzati minn Catherine Sammut talli permezz ta' rapport miktub mill-kwerelant Matthew Vella bhala editur intestat "**The Last Samurai**", liema rapport gie ppubblikat fil-harga ta' 8 ta' Mejju 2011 fil-gurnal MaltaToday bi hsieb li ttelfu jew tnaqqsu il-gieh lill-mejjet Frans Sammut, weggajtuh b'kitba mxandra jew esposta lill pubbliku bi ksur ta' l-artikoli 252 (1) u (3) tal-Kap 9 tal-Ligijiet ta' Malta.

2. U aktar billi intom akkuzati wkoll minn Sammut talli permezz ta' rapport miktub mill-kwerelant Mark Anthony Vella u ippubblikat mill-kwerelant Matthew Vella bhala editur intestat "**The Last Samurai**" liema rpport gie ppubblikat fil-harga ta 8 ta' Mejju 2011 tal-gurnal "MaltaToday" irrepetejtu informazzjoni zbaljata u dan b'mod li jaghti x'jifhem u jattribwixxi malafama lil kwerelant, bi ksur ta' l-Artikolu 11 tal-Kap 248 tal-Ligijiet ta' Malta.

Rat illi fid-29 ta' Ottubru 2012 il-Qorti kienet ghaddiet biex illiberat lill-akkuzati wara illi ma dehrux il-kwerelanti hekk kif il-prosekuzzjoni sejjhet il-kawza fid-9.00 f'lok l-10.30 kif kienet appuntata ghas-smiegh, liema sentenza eventwalment giet imhassra mill-Qorti tal-Appell fl-10 ta' Gunju 2015, li regghet baghtet l-atti l-Qorti biex l-kawza tigi deciza kif trid il-Ligi.

Rat illi fid-9 ta' Marzu 2016 dehru l-akkuzati quddiem il-Qorti.

Semghet ix-xhieda tal-kwerelanta **Catherine Sammut** moghtija fid-9 ta' Marzu 2016 kif ukoll rat fir-reqqa n-notamenti tal-kwerelanta stess illi abbazi taghha hija kienet ser tixhed, liema notamenti hija kkonfermat in toto bil-gurament (dol 91-100)

Semghet ix-xhieda tan-**Nutar Mark Anthony Sammut** moghtija fid-9 ta' Marzu 2016.

Rat illi fid-9 ta' Marzu 2016 il-prosekuzzjoni ddikjarat illi ma kellhiex aktar provi x'tippresenta.

Semghet ix-xhieda ta' **Saviour Balzan** moghtija fl-1 ta' Gunju 2016 u rat id-dokument minnu ppresentat, ossija l-artikolu meritu tal-kawza odjerna.

Semghet ix-xhieda ta' **Mark Anthony Vella** moghtija fl-1 ta' Gunju 2016 u rat id-dokumentazzjoni varja minnu esebita.

Semghet ix-xhieda ta' **Eddie Privitera** moghtija fl-1 ta' Gunju 2016.

Semghet ix-xhieda ta' **Mark Camilleri** moghtija fl-1 ta' Gunju 2016.

Semghet il-kontro ezami ta' Saviour Balzan u Mark Anthony Vella moghtija fil 5 ta' Ottubru 2016.

Rat illi fil 25 ta' Jannar 2017 id-difiza ddikjarat illi ma kellhiex aktar provi x'tippresenta u ghalhekk il-kawza giet differita ghas-sottomissjonjiet.

Rat illi s-sottomissjonijiet tal-kwerelanta Catherine Sammut gew ippresentati fid-29 ta' Marzu 2017.

Rat illi s-sottomissjonijiet tal-imputati Mark Anthony Vella u Saviour Balzan gew ippresentati fit-12 ta' Mejju 2017.

Rat illi fit-13 ta' Gunju 2017 il-kawza thalliet ghas-sentenza ghallum.

Ikkunsidrat

Jirrizulta, l-ewwel u qabel kollox, illi l-proceduri kriminali odjerni saru kemm abbazi tal-Artikolu 252 (1) u (3) tal-Kap 9, kif ukoll abbazi tal-Artikolu 11 tal-Kap 248.

Jirrizulta illi, abbazi tax-xhieda kollha migjuba quddiemha, l-kliem illi dwarhom l-kwerelanta hassitha aggravat dwarhom, kienu kliem illi saru bi-kitba, u ghalhekk, il-Qorti taghmel referenza ghall-kawza fl-ismijiet **Il-Pulizija vs. Anton F. Attard**, deciza fl-10 ta' Lulju 2006 mill-Qorti tal-Appell Kriminali ippresjeduta mill-Prim Imhallef Vincent DeGaetano, fejn intqal:

> *"Issa, din il-Qorti, minghajr ezitazzjoni, taqbel ma' l- appellant li ingurja jew malafama permezz ta' stampat, bhalma huwa ktieb li jigi ppublikat, ma taqax u ma tistax tigi punita taht l-Artikolu 252(1) (jew addirittura taht l- Artikolu 252(3)) tal-Kodici Kriminali. L-Artikolu 256 huwa car fil-portata tieghu u dejjem gie interpretat mill- Qrati ta' Gustizzja Kriminali li, meta l-ingurja ssir bil- mezz ta' l-istampa (b'mod li l-ingurja jew il-malafama tkun allura tammonta ghal dak li komunement jissejjah libell), hi applikabbli il-Ligi dwar l-Istampa u huma applikabbli d-disposizzjonijiet tal-Kap. 248".*

Ghalhekk, l-ewwel akkuza migjuba kontra l-akkuzati, la darba bbazati fuq l-Artikolu 252 (1) u (3) tal-Kap 9, ma hijiex ser tigi aktar ikkunsidrata minn dina l-Qorti u ser tigi kkunsidrata it-tieni akkuza, illi wara kollox hija identitka ghall-ewwel wahda salv illi, f'dana il-kaz, hija ibbazata fuq l-Artikolu 11 ta' Kap 248, ossija dik ta' malafama.

Ikkunsidrat

L-artikolu meritu tal-kawza odjerna hija nekrologija dwar il-kittieb Frans Sammut illi kien miet ftit qabel, liema nekrologija dehret pubblikata fil-harga tat 8 ta' Mejju 2011 tal-gazzetta MaltaToday u jisthoqq illi, ghall-kompletezza ta' dina s-sentenza, tigi riprodott tali nekrologija in toto, fejn dina kienet tghid is-segwenti:

> *Obituary: Frans Sammut – The Last Samurai*
>
> *Charting Frans Sammut's literary career might be akin to tracing the rise and fall of an erstwhile icon, and – if punning titles are anything to go by – stumbling at the point where public life and art clumsily collide into an unknowing hara-kiri.*
>
> *Sammut's legendary contribution to Maltese literature is indeed* Samuraj*, a little gem of a novel that epitomises the anti-heroic tale of home-grown narrative modernism.*
>
> *In ironic contrast to his public profile – boisterous and booming (his characteristic rowdiness as headmaster and cultural advisor to Alfred Sant left an imprint on former colleagues), teetering on the fringes of the loony left and exhibiting the phlegm of the stereotypical Żebbuġi – his classic oeuvre is a tight and disciplined text chronicling the tragic demise of Samwel, an inadequate shying loner unable to come to terms with the stifling confines of Maltese society.*
>
> *Trapped within a typical Maltese village, Samwel fights against all the typical moral strictures that prevent him from fulfilling his unique identity and his relationship with Żabbett, until he surrenders in a dramatic act of self-immolation reminiscent of the proud Japanese warriors whose tales and deeds are elegantly juxtaposed within the narrative's texture.*
>
> *It's a meaningful surrender, universally interpreted as an act of tragic pride and a refusal to conform. Hence the paradoxical anti-hero tag, a winner of nothing but bittersweet, symbolic defeat. Sammut's literary condemnation of his protagonist is probably also one of the most extreme solutions that modern novelists have dealt to their character's tribulations.*
>
> *The anti-hero, from Ellul Mercer's and Orlando's prototypes to the various modernist incarnations, invariably surrenders to his helpless destiny, either through total retreat, a cyclical return to the initial drudgery; or even by being happily swallowed back by the environment he desperately tried to flee.*
>
> *But Sammut's final solution translates into a clear condemnation of a society that stifles individuality and free will, dominated by the classic ideological apparata of the clergy and the various influential patrons of village life.*

It is also the drastic remedy to the Maltese cage, as exemplified in his first novel Il-Gaġġa, a loose coming-of-age novel dabbling in stream of consciousness and still grappling with the stylistic challenges of a longer narrative, but already asserting a vital streak of individuality and lashing out at all societal mechanisms that impede Fredu Gambin's personal development.

Samurajis indeed Sammut's actual coming of age, a mature filtering of Fredu's teenage angst, distilled into Samwel's laconic declarations and his essential symbolic actions.

Fast forward some 20 years, and Sammut joins the anti-EU camp in 2002 and while not necessarily on the wrong side of history, refuses the potential opening of the suffocating cage and opts for a badly-plotted map of the country's possible future.

Years before,Paceville, heavily marketed as the Generation X novel for the early 90s, had totally missed the mark, and failed in its attempt to chronicle a potentially fertile new symbolic 'village'. Instead Sammut chose to moralise on the pitfalls of contemporary wasted youth, with the typical cliché-ridden depiction of fickle drug-addled teenagers and cringeworthy moments of tentatively racy titillation.

The irony of the rebel turning conservative is striking, especially in the light of Sammut's creative peak having served as one of the main symbols of a literary generation that, on paper, strove to upset the literary canon and promote a creative revival coupled with a political engagement (the Moviment Qawmien Letterarju) albeit loosely defined, that would see the nation through a post-Independence world fraught with the excitement of the new, but also the questions about the unknown.

Sammut did however reach another peak. A man of letters with a keen interest in Mikiel Anton Vassalli, he published Il-Ħolma Maltija, probably one of the first conscious attempts at a postmodern narrative. Similarly to Eco's Il Nome della Rosa, Sammut's narrator is Vassalli himself, talking to the reader in the probable pre-modern Maltese of the time (through an accidentally discovered manuscript) about his dreams for Maltese nationhood. Back to the anti-hero, battling the forces that be and suffering ignominious exile and exclusion, or the posthumous hero, co-opted by partisan politics and reduced to a shallow icon.

Sammut may well be remembered for these contradictions.

<u>His latest public foray took to task rebel writer Alex Vella Gera, standing firmly for censorship and the judicious selection by the chosen few of works suitable for the public's delectation.</u>

Irony has it that, hot on the heels of this unwitting controversy, Vella Gera publishes L-Antipodi, essentially revisiting the Maltese modernist narrative, that starts from a village like Samuraj's, switches between continents, and consciously returns back to the cage, proposing a novel literary solution to the heroic dilemma.

<u>From sixties' rebel to virulent retrograde</u>, the debate may not necessarily centre on who was the real Sammut, but embrace a wider debate concerning the Maltese artist, if need be the question of his integrity, the moment where the collusion with certain pressures of our distinct public life can bring into doubt the effectiveness of one's artistic production.

Coupled with that, a re-evaluation, short of a polite debunking, of the myths surrounding Sammut's wider coterie and literary generation, and the value and consequence of their artistic production and their political involvement.

A closing anecdote. As an AD activist campaigning for EU accession, I had been invited to a televised debate on the cultural aspect of the European Union. Sammut was representing the No camp. After rattling off the values of multilinguism and the prospects of employment for Maltese linguists, I asked Frans if he wouldn't want to have the chance to see his novels translated and more accessible to the European public. It might have been underhanded on my part, a bit of a long shot, but Frans just shrugged embarrassedly, squirming in his seat and trying to hide from the camera his difficulty at being unable to retort, but ultimately, his pride for being recognised for what he really always was: an author.

Ikkunsidrat

Jirrizulta illi l-kwerelanta Catherine Sammut, mart il-mejjet Frans Said, fix-xhieda taghha u l-affidavit taghha minnha kkonfermat seduta stante, filwaqt illi stqarret illi l-artikolu fih kemm valutazzjonijiet letterarji kif ukoll valutazzjonijiet personali, sahqet illi ghal dak li jirrigwarda valutazzjonijiet letterarji, dawna ghandhom jigu accettati ghal li huma stante illi kullhadd ghandu dritt ghall-opinjoni tieghu.

Jirrizulta madanakollu illi, ghal dak jirrigwarda l-valutazzjonijiet personali tar-ragel taghha, hija hassitha malafamata b'dak illi inkiteb fuqu u ghalhekk niedet il-proceduri odjerni peress illi, kif sahqet l-istess kwerelanta, dana kellu jintfiehem f'kuntest usa fejn ir-ragel taghha kien attakkat mill-gazzetta MaltaToday kontinwament, u dana fis-sena 2005 u fis-sena 2008!

Jirrizulta illi fost l-affarjiet illi intqalu li hija hassitha malfama bihom, kien hemm is-segwenti:

- Il-fatt illi t-titolu kien jiddeskrivi lill Frans Sammut bhala '**The Last Samurai**', b'referenza ghal ktieb tieghu '**Samurai**' u dana peress illi dana jaghti wiehed x'jifhem illi l-ktieb kien wiehed awtobijografiku kif ukoll illi s-Sur Sammut kellu jitqies bhala Samurai, ossija, fi kliem il-kwerelanta stess, "*gellied minghajr sid li jemmen f'dinja li ghadda zmienha*";

- Il-fatt illi l-artikolist ddeskriva il-hajja litterarja ta' Frans Sammut bil-kliem "*Charting Frans Sammut's literary career might be akin to tracing the rise and fall of an erstwhile icon"* ghax l-kwerelanta tishaq illi l-karriera letterarja tar-ragel taghha ma kienetx falluta, kif ta' x'jifhem l-artikolist, u baqa rispettat sa meta miet u l-kitbiet ghadhom qed jintuzaw sa llum*;*

- Il-fatt illi l-artikolist uza l-kliem "*stumbling at the point where public life and art clumsily collide into an unknowing hara-kiri",* ghax il-kwerelanta tishaq illi l-artikolist ta' x'jifhem illi l-hajja pubblika u l-arti ta' Frans Sammut wassluh li bla ma jaf joqtol ruhu b'idejh, haga illi hija tinsisti li ma huwa minnu xejn.

- Il-fatt illi l-artikolist uza l-kliem "*boisterous and booming (his characteristic rowdiness as headmaster and cultural advisor to Alfred Sant left an imprint on former colleagues)"* fejn hi tishaq illi dana ma huwa minnu xejn.

- Il-fatt illi l-artikolist uza l-kliem "*teetering on the fringes of the loony left and exhibiting the phlegm of the stereotypical Żebbuġi"*, fejn hi ilmentat illi r-ragel taghha huwa deskritt bhala li jifforma parti minn "xellug mignen", kif tiddefinih l-kwerelanta stess.

- Il-fatt illi l-artikolist mar jghid illi "*His latest public foray took to task rebel writer Alex Vella Gera, standing firmly for censorship and the judicious selection by the chosen few of works suitable for the public's delectation"* fejn hija insistiet illi zewgha qatt ma kien favur ic-censura, izda kien, fi kliemha stess, "*kontra l-kuntrabandu tal-imbarazz bhala letteratura biex wiehed idur mal-ligi li trid tipprotegi li min ghadu tari u immatur milli jkun espost ghal kitba li hija intiza ghall-adulti*"

- Il-fatt illi l-artikolist ddeskriva lill-zewgha bhala "*From sixties' rebel to virulent retrograde"* fejn hija kkontendiet illi l-artikolist ried jiddeskrivi lill-zewgha bhala persuna degenerata, fatt illi ma kien minnu assolutament xejn.

Ikkunsidrat

Jirrizulta, mill-banda l-ohra, illi l-artikolist, ossija l-kwerelat Mark Anthony Vella, jishaq illi huwa dejjem irrispetta hafna lill Frans Sammut u, fix-xhieda tieghu, dwar dak li kien qed jigi lilu akkuzat, jghid:

> *hadt gost u kont onorat li ha nikteb dwar awtur li dejjem ammirajt u kont lestejt din il-kitba qasira fejn iprovajt naghti daqqa t'ghajn lejn il-kisbiet letterarji ta' l-awtur flimkien ukoll mal-personalita` tieghu li 'l hinn mil-letteratura, ghaliex kellu passat ukoll jew profil politiku u profil pubbliku interessanti u b' xi mod jew iehor ikkombinajt iz-zewg grajjiet flimkien u urejt il-faccetti differenti ta' dan il-persunagg li kien pjuttos kumpless ukoll. U nista' nghid jekk nista' nghid idea personali ta' xi ktibt jiena, jiena ktibtu b' ammirazzjoni kbira*

Dwar il-varji istanzi fl-artikolu li dwarhom l-kwerelanta Catherine Sammut hassitha malafamata, huwa jghid dan li gej:

- Dwar it-titolu '*The Last Samurai*":

> *bl-idea ta' Last Samurai l-idea kienet li Frans Sammut, u nahseb li huwa vera, kien wiehed minn l-ahhar intelletwali jew hassieba wiehed minn ta' l-ahhar li kellu dawk il-fehmiet qliel – dawk il-fehmiet – il-fehma qalila, fehma li jibqa' jinsisti fuqha u li qisu bhal li kieku kienet the end of an era tal-personalijiet tat-tip tieghu.*

- Dwar l-uzu tal-kelma "*hara kiri*":

> *Il-Hara-Kiri semmejtu ghaliex ridt nindika li meta Frans Sammut filli kien jipriedka fil-lettaratura tieghu l-ftuh, u mbaghad dahal mas-CNI, mhix niftehmu, bhallikieku ghamel foul tal-personalita` tieghu.*
>
> …

L-uzu tal-kelma ta' Hara-Kiri kienet li bhallikieku l-awtur filli kien qieghed fuq din il-vija axxendenti ta' bniedem li jipriedka l-ftuh, jipriedka l-harba minn l-gheluq ta' socjeta` asfessjanti konservattiva Malitja, imbaghad meta rajna l-mod ta' kif kien jesprimi ruhu politikament dwar li Malta tibqa' barra minn l-Unjoni Ewropea l-kuntrast jidhirlek bhallikieku li dan il-ftuh qed imur kontrih.

- Dwar l-uzu tal-kliem "*boisterous and booming*":

Frans Sammut kif ukoll jghid Adrian Grima fil-kumment tieghu kien qalil fil-fehmiet tieghu, kien unwavering, kien uncompromising, kien hemm anke hafna xhieda obituaries ukoll li saru fil-gazzetti ohrajn fejn jghidu Frans Sammut taf inti kellu dik l-upper u mbaghad kien jikkalma. Pero` kien bniedem li kellu qilla fil-fehmiet tieghu u ma kienx jikkomprometti il-fehmiet tieghu ghax ma kienx icedihom; bhas Samurai sa ceru punt. Pero` that's by the by. Imma dik hi. So boisterous and booming. Ma kienx ragel kwiet, kajman.

- Dwar l-uzu tal-kliem "*Teethering on the fringes of the loony left*":

Is-CNI ma kienx partit politiku. Kien qisu pressure group dak iz-zmien. Jigifieri kien qisu formazzjoni politika extra parlamentari. Formazzjoni politika li ma kinetx parti mid-dibattitu - li kienet parti mid-dibattitu pero` ma kinetx il-PN jew l-MLP dak iz-zmien. Jigifieri dawn kienu splinter group xellugi partikolari li kellu nies partikolari fih. Jigifieri minghajr ma nsemmi nies partikolari imma ghandi wkoll CD hawnhekk fejn ghandi recordings ta' xi programme ta' l-Awtorita` tax-Xandir, l-intervent tas-CNI jien niftakarhom karatterizzati hafna minn certu teatrin. Minn l-ghajjat, nies jitilqu mill-programm. U ma kellhomx nghida bejn virgoletti – id-dinjita` forsi li jkollu dibattitu politiku bejn iz-zewg partiti naghtu kaz; taf inti, fejn hadd ma jaqbad u jitlaq u hekk jigifieri.

- Dwar il-fatt illi ddeskrivih bhala "*stereotypical Zebbugi*":

jiena semmejt stereotypical Zebbugi ghax Frans Sammut kien minn Haz Zebbug u nahseb li kien - anzi kien kburi hafna mill-wirt Zebbugi tieghu. U jiena nahseb li fil-limiti ta' l-artikolu ma kien hemm l-ebda malizja u referenza ulterjuri; u Malta, u anke fil-lingwa taghna u fil-kultura taghna u nghiduha b' simpatija, hemm diversi rhula li ghandhom konnotazzjonijiet partikolari hux hekk? Is-Slimiz jissejjah mod, l-Ghawdxi jissejjah mod iehor, nghiduhom, huwa parti mill-kultura taghna.

- Dwar il-fatt illi tkellem dwar ic-censura w l-ktieb ta' Mark Vella Gera:

l-kwistjoni tac-censura li Frans Sammut kien fi zmien l-kaz ta' "Li Tkisser Sewwi" ta' Alex Vella Gera kien fuq in-naha tac-censur biex niftehmu fl-artikolu tieghu fil-kummenti tieghu. Dina issemmhiet anke fl-artikolu tal-Guardian biex niftehmu fejn hemm miktub li Frans Sammut huwa favur ic-censura; u ta' l-Independent ukoll

- Dwar l-uzu tal-kelma "*retrograde*":

L-idea ta' retrograde hija li wiehed - ... ehe; hawnhekk qalu - zewgi ma kienx retrograde. Skont id-dizjunarju ta' Aquilina 'retrograde' tfisser bniedem degenerat. Jien iccekjat f' Aquilina; f' Aquilina hemm zewg definizzjonijiet. Ir-retrograde jigifieri retrogradare jigifieri inti tmur lura. Jigifieri dan ghalija filli rajtu bhala ribelli tas-sittinijiet u filli mbaghad rajtu sejjer lura. Pero` ovvjament il-vizjoni tieghi.

Ikkunsidrat

Il-Qorti ma tistax ma tosservax dak illi qalet fl-ahhar l-kwerelanta Catherine Sammut, fin-notamenti taghha, fejn qalet:

> *"Dan l-artiklu irid jinftiehem ukoll fil-kuntest usa' tal-attakk kontinwat li kien ilu jsir mill-Malta Today kontra zewgi u l-bqija tal-familja. Dan l-attakk sehh mill-anqas fl-2005 u fl-2008. Huwa fil-kwadru usa ta' dawn l-attakki li wiehed isib l-intenzjoni malizzjuza generika min-naha tal-editur, u f'dan l-artikolu miktub erbat ijiem biss wara mewt Frans li wiehed isib l-intenzjoni malizzjuza specifika min-naha tal-awtur ta' dan l-artiklu."*

Il-Qorti tifhem, ghalhekk, illi dak illi wassal lill-kwerelanta Catherine Sammut tiehu l-pass illi tipprocedi kriminalment kontra l-kwerelati Saviour Balzan u Mark Anthony Vella, fejn dak ta' l-ahhar kien l-artikolist, kien il-fatt illi l-artikolu inkiteb ftit jiem biss wara il-mewt ta' l-ghaziz ragel taghha, li kien, fil-passat, gia mira ta' attakki ohra fil-konfront tieghu mill-gazzetta mmexxija mill-kwerelat Saviour Balzan.

Dana qieghed jinghad, ghax fl-ottika ta' qarrej ordinarju, illi biha l-artikolu meritu tal-kawza odjerna ghandha tigi evalwata minn dina l-Qorti, ma jidhirx illi jesistu l-estremi tal-ligi tal-malafama f'dak kollu illi intqal mill-kwerelat Mark Anthony Vella fuq ir-ragel tal-kwerelanta, ossija Frans Sammut.

Anzi, il-Qorti tosserva illi, mill-qari ta' l-artikolu, hija tinstab certa li, ghal min ma huwiex f'kuntatt ma' l-izviluppi tax-xena letterarja Maltija, l-artikolu ossija nekrologija illi saret tista biss tqanqal aktar interess fil-kitba tal-mejjet Frans Sammut stante illi l-artikolist jsemmi t-temi ta' uhud mill-kotba principali ta' Frans Sammut b'mod illi certament tqajjem il-kurzita' tal-qarrejja biex ikunu jafu aktar dwar il-kitbiet ta' Frans Sammut, haga illi certament illi kull kittieb ikun jixtieq illi ssir.

Il-Qorti tapprezza l-ugiegh tal-kwerelanta illi, wara il-mewt ta' persuna illi maghha hija bniet familja u li kienet certament sors ta' stabbilita' u energija, tara illi jiktbu fuqu fuq il-mezzi tax-xandir, possibbilment anke bi kritika lejn dak illi ghamel fil-hajja tieghu, izda tosserva wkoll illi r-ragel taghha, Frans Sammut, kien persuna pubblika u ghalhekk, minn zmien ghal zmien, kien ikun suggett ghall-kritika ghal xi azzjoni pubbliku illi huwa jkun ghamel. Naturalment, huwa fatt maghruf illi l-azzjonijiet ta' persuni ma jmutux hekk kif il-persuna tghaddi ghal hajja ahjar, u jibqu jifftakkru maz-zmien, skond kemm il-persuna pubblika kienetx ta' interess ghall-media in generali jew le.

Il-Qorti tosserva illi, abbazi tax-xhieda prodotta mid-difiza stess, ossija Eddie Privitera u Mark Camilleri kif ukoll tad-dokumentazzjoni prodotta quddiem dina l-Qorti, in-nekrologija redatta mill-artikolist u kwerelat Mark Anthony Vella tidher illi kienet riflessjoni tal-opinjoni w l-immagini li l-artikolist Mark Anthony Vella kellu ta' Frans Sammut, tant illi Vella, fix-xhieda tieghu in kontro ezami sahaq illi huwa ra "*lil Frans Sammut bhala pilastru tal-letteratura Maltija*".

Il-Qorti ghalhekk tifhem illi, f’ghajnejn il-qarrej ordinarju, dak miktub mill-kwerelat Mark Anthony Vella ma jistax jitqies bhala illi b’xi mod jaghti x’jifhem u jattribwixxi malfama lill kwerelanta Carmel Sammut, mart il-mejjet Frans Sammut.

Konkluzjoni

Il-Qorti

Wara illi semghet il-provi kollha prodotti u t-trattazzjoni ta' l-abbli difensuri tal-partijiet

Wara illi rat l-Artikolu 252 (1) u (3) tal-Kap 9 u l-Artikolu 11 tal-Kap 248,

Tghaddi biex taqta u tiddeciedi l-kaz billi

Tillibera lill-kwerelati Saviour Balzan u Mark Anthony Vella mill-akkuzi kollha migjuba kontra taghhom.

Magistrat Francesco Depasquale

Rita Sciberras
Deputat Registratur