Qorti ta' l-Appell
(Kompetenza Inferjuri)

Imħallef Anthony Ellul

Appell Civili numru:- 232/2014/1

Anthony Micallef
vs
Martin Vella

18 ta' Diċembru, 2018.

1. Permezz ta' rikors preżentat fil-15 ta' Lulju 2014, ir-rikorrent ħarrek lill-intimat Martin Vella fil-Qorti tal-Maġistrati (Malta) sabiex:

'Prevja dikjarazzjoni ta' din Onorabbli Qorti illi pubblikazzjoni konsistenti f'email mibghut mill-intimat u distribwit lil numru ta' persuni fit-2 ta' Mejju, 2014 (hawn anness u mmarkat Dok. A, liema email għandu l-partijiet l-aktar libellużi fih evidenzjati bl-isfar) huwa libelluz u malafamanti fil-konfront tar-rikorrent billi l-pubblikazzjoni fiha dikjarazzjonijet illi apparti illi huma infondati, huma palezement intenzjonati sabiex ittellfu jew inaqqsu irreputazzjoni tar-rikorrent u sabiex tesponih ghar-redikolu jew ghad-disprezz tal-pubbliku, thallas lir-rikorrent in linea ta danni dik is-somma li tigi likwidata minn dina l- Onorabbli Qorti a tenur tal-Artikolu 28 tal-Att dwar Istampa, Kapitlu 248 tal Ligijiet ta' Malta.'

2. Permezz ta' risposta[1] ppreżentata fit-13 ta' Ottubru 2014, l-intimat wieġeb:

'1. Illi fl-ewwel lok l-emails li qed jilmenta minnhom ir-rikorrent Anthony Micallef ma humiex malafamanti jew b'xi mod inaqqsu jew itellfu ir-reputazzjoni tieghu kif ser ikun ippruvat waqt it-trattazzjoni tal-kawza;

2. Illi fit-tieni lok ir-rikorrent irid jipprova il-veraċità tal-kontenut tad-dokumenti li ippreżenti l-Qorti billi l-email in kwistjoni ma hijiex indirizzata lilu;

3. Illi kif ser jirrizulta waqt it-trattazzjoni tal-kawza ir-rikorrent innifsu kien palezement idejjaq lill-esponent biex bi prepotenza jattendi u jkun kelliem ewlieni f'attivita organizzata mill-esponent ghan-nom tas-socjeta li jirraprezenta bla ma kien invitat li jaghmel dan u li sahansitra l-istess rikorrent kien sostna li kien ser jaghmel il-hsara lill esponent;

4. Illi l-frażijiet indikati bl-isfar ma humiex libellużi u dak kollu li hemm kontenut ser ikun ippruvat bħala veritjier.

5. Illi bla preġudizzju għas-suespost, il-kummenti jikkostitwixxu fair comment.'

[1] Fol. 9.

3. Permezz ta' sentenza mogħtija fit-22 ta' Jannar 2018, il-Qorti tal-Maġistrati (Malta) iddeċidiet kif ġej:

> *'**Tichad** l-eccezzjonijiet kollha ta' l-intimat u, ghalhekk*
>
> ***Tilqa** it-talbiet attrici kollha u ghalhekk*
>
> ***Tiddikjara** illi l-emails mibghuta mill-intimat fil-2 ta' Mejju 2014 lill terzi persuni kienu jikkontjeni kliem u allegazzjonijiet illi kienu malafamati u libelluzi fil-konfront tar-rikorrent u, a tenur tal-Artikolu 28 tal-Kap 248 tal-Ligijiet ta' Malta, u ghalhekk*
>
> ***Tikkundanna** lill-intimat Martin Vella ihallas lir-rikorrent Anthony Micallef is-somma ta' elfejn Euro (€2,000) bhala danni likwidati minn dina l-Qorti.*
>
> *Spejjez tal-proceduri odjerni ikunu kollha a kariku ta' l-intimat.'*

4. Illi minn din is-sentenza appella Martin Vella. L-aggravji tiegħu huma li:
   i. l-Ewwel Qorti għamlet apprezzament skorrett tal-fatti u ligi;
   ii. il-*quantum* tad-danni huwa eċċessiv tenut kont l-kontenut tal-*emails* in kwistjoni u n-numru limitat ta' qarrejja tal-kitba.

5. Talab għalhekk illi din il-Qorti:

> *'tirrevoka s-sentenza tal-Qorti tal-Maġistrati (Malta) tat-13 ta' Jannar 2018, billi wara li tilqa' l-eċċezzjoni fil-mertu tal-esponenti, tiċħad it-talbiet attriċi – bl-ispejjeż kontra tiegħu.'*

<u>Preliminari.</u>

6. Fit-talba tiegħu, l-appellant talab lil din il-Qorti tirrevoka s-sentenza tal-Qorti tal-Maġistrati (Malta) tat-13 ta' Jannar 2018 minflok tat-22 ta' Jannar 2018, li hi d-data korretta tas-sentenza. Żball tipografiku inkwantu aktar l-quddiem l-appellant irrefera għas-sentenza appellata b' mod korrett, ossija, datata 22 ta' Jannar 2018.

7. In vista ta' dan, a tenur tal-artikolu 175 tal-Kodiċi tal-Organizzazzjoni u Proċedura Ċivili, din il-Qorti tordna li r-referenza għat-'*13 ta' Jannar 2018*' fit-talba tar-rikors tal-appell in diżamina titħassar u tiġi sostitwita minflok bil-kliem '*22 ta' Jannar 2018*'.

<u>Konsiderazzjoni.</u>

8. Il-fatti li jirriżultaw mill-atti huma s-segwenti:
   - Ir-rikorrent Anthony Micallef, għandu *business* privat tiegħu bl-isem ta' *Office Group Limited*, agenti ta' printers tad-ditta Konica Minolta. Kien ukoll il-President tal-*Maltese Libyan Chamber of Commerce;*

- L-appellant Martin Vella jaħdem fil-qasam tal-*publishing* u fiż-żmien in kwistjoni kien il-proprjetarju u l-editur ta' magazine bl-isem *Property & Life*, u kif ukoll kien l-editur ta' rivista bl-isem *Economic Update*, propjeta' ta' *Network Publications* illi kienet timpjegah;
- *Network Publications* u *Economic Update* kienu ġew inkarigati mill-Ambaxxjata Tuneżina sabiex jorganizzaw il-'*Malta-Tunisia-Libya B2B Networking Forum 2014*' illi sar f'Smart City fit-8 ta' Mejju 2014;
- Qabel l-appellant ġie nvolut fl-organizzazzjoni tal-imsemmija konferenza, bħala President tal-*Maltese-Libyan Chamber of Commerce* l-appellat kien iddiskuta l-possibbiltà illi tiġi organizzata tali attivita mal-Ambaxxatrici tat-Tuneżija u kellu jindirizza l-konferenza fil-ftuħ;
- Madanakollu, hekk kif l-appellant assuma r-reponsabbiltà tal-organizazzjoni tal-Konferenza, il-programm tal-attività illi kien ġie redatt mill-Ambaxxata ġie mibdul u l-appellat ma' baqax aktar indikat bħala kelliem tal-konferenza;
- Dan wassal għal skambju ta' korrispondenza bejn il-partijiet fejn ġew ikkupjati ukoll terzi, li huwa l-mertu tal-kawża fl-istess ismijiet bin-numru 157/14FDP li qed tiġi deċiża llum ukoll;
- Permezz ta' *Note Verbal* li ġġib id-data tat-2 ta' Mejju 2014, l-Ambaxxatriċi Tuneżina, irriaffermat ix-xewqa tagħha illi l-appellat jipparteċipa fl-imsemmija Konferenza;[2]
- L-appellant ġie a konoxxenza ta' l-invit uffiċjali lill-appellat u fit-2 ta' Mejju 2014 kiteb lill-Ambaxxatrici Tuneżina email ta' tlett faċati fejn insista dwar l-oġġezzjoni tiegħu.[3] Din l-*email* hija l-meritu tal-proċeduri odjerni u fiha ngħad is-segwenti:

  Dear Ambassador,

  We fully understand your position and why you sent the invitation, however, our position remains the same in the light of threats made against us by the said President of the LMCC.

  The LMCC have registered members from the Libyan Libyan-Maltese Chamber of Commerce to the Forum, but the President CANNOT be welcomed and will be barred from entering by security. This is an event which is costing us thousands and Mr Micallef is not welcome. He has done events last year and this year and did not want us there, so we respected that and do not want him in any of our events for a number of reasons and We DO NOT want him.

  On the other hand, please inform that President he can send someone instead of him, but that our programme does not allow any of his representatives to speak, as we have made commitments with Hon Ministers and other VIP guests, with Mr Michael Frendo moderating the

[2] Fol. 47 tal-każ numru 157/14FDP fl-istess ismijiet.
[3] Fol. 2 – 4.

first session. We do realise that Mr Micallef has been putting a lot of pressure behind the scenes and to you personally, but we kindly request you to respect our position and that also Mr Micallef respects our position mainly that his cannot participate. He can always send a delegate from the LMCC to represent him and this we can confirm. I believe that his vice-President and his Administrative Secretary requested they come and I told them they can, so please relay this message ***as we do not wish him to disrupt our event****, or come to our event and ride on our back at our own expense.*

On a personal level, please note we have been working extremely hard for this event and we have over 25 exhibitors from Malta and Mr Micallef's presence will not influence the outcome or nor have a bearing, as we have guaranteed maximum success.

This Forum will be a huge success and there will be plenty of chances that we are creating and a plethora of opportunities of partnerships between the Tunisian, Maltese and Libyan community and this is not gong to certainly disappear because there is one person not in it, who is not influential to the event. We have confirmed all speakers, registered over 400 delegates and exhibitors have taken stands and it is too late in the day to make any U-turns.

We hope you appreciate the fact that we are conceding enough room to accept other members or representatives from the LMCC ***but Mr Micallef is not wanted and cannot come. I do not have an personal problems with Mr Micallef. Mr Micallef has problems with our company and with interests our company represents, and has tried to defame us and slander us, and is always harming our interests wherever he is. Mr Micallef cannot attend or try to disrupt our event, as we are having to fork out over Euro 25,000 for the organisation and we will hold him fully responsible. I have shown Anchelique just small part of the costs this morning.***

Please understand this is not a personal issue and it is our collective decision and we cannot undestand why this when you have requested us launch a new Maltese-TunisianLibyan Chamber of Commerce, which has attracted the interest of local banks, members of the business community and other traders with North Africa who have expressed their wish to set-up this Chamber and that is why we write to the Chamber of Commerce yesterday.

As regards to Malta Enterprise we have invited them and they have not acknowledged but they are welcome attend. It is up to them to confirm registration, we cannot chase everyone and tell them to come. They are free to attend and I believe they are sending someone as someone called today. We work with ME and have no problems here at all.

The Malta Chamber of Commerce, Enterprise and Industry President Mr David G Curmi who is our great friend and main sponsor as Msv for our Top Entrepreneur Awards,was scheduled to speak, however, he will be abroad and he ahs informed me he is sending a delegation from ME to attend. We work together with the Chamber, so there are no problems here too and I know why you are worrying about this, when we have MHRA, GRTU, MIM, EIE, OPM, and over 23 constituted bodies attending.

Finally, please note that it is not just up to me to decide on such a gesture of honour, as I do not work alone and our reputation with "The Economic Update", which is Malta's number 1 business publication stands and ranks at the top. We want to play a great role in the future in bringing together the three countries business communities.

What we want to see is positive attitude and gestures from Mr Micallef himself not threats, lies and coercion to try to intimidate us. Please note we had already Mr Micallef email to register but he refused, preferred to make an issue out of nothing, insisting to speak, actions which are arrogant, irresponsible and unethical.

While we hope to have made a step by allowing other members from LMCC to attend, this should also have no influence on whether the Embassy wants to continue to work closely with us, since we are catalysts to make successful are working.

We would have actually appreciated you talk to us directly on this concern, and the programme of the forum has been changed as the one we have sent you in order to allow the important persons that do really have influence in trade and commerce between all three countries, and it is mainly those people who take decisions. You have asked us to organise this and we are doing this with the best that you can get and in our way, as we have full experience and confidence, having organised all the major B2B events in Malta over past five years.

I have just been on the line with Minister Mizzi, and with the list of speakers we have, we cannot accommodate any other due to time restrictions and schedule, as well as the sponsors and exhibitors paying wanted it to be that way too and we have to honour and respect that, as the success depends also on the people who are supporting paying for booths and exhibiting.

This is not about me or Mr Micallef, it is about Malta-Tunisia-Libya. ***Mr Micallef is a negative, destructive and obstinate person, as we had given him plenty of opportunities and offered him our handshake in past, but he refused and instead wanted only to harm us.*** *The responsible and positive attitude must come from Mr Micallef and not vice-versa.*

At moment I am very busy with operations and meetings, so if you wish we can discuss this Monday please, as at the moment we have plenty of logistical problems to contend with.

Please note we are fully responsible with programme (we are bringing in key note speakers and paying for their services too) logistics, security, safety, invites, registrations, audio, location, chairs, marquee, carpeting, sound, lunch, cleaning, ambulance stand-by, police, internal and external security, etc.

We are also paying for accommodation of the Libyan Orchestra and offering free coffee and biscuits, including free books to the Tunisian delegates, as well as souvenir pack and free workshops, so I think our goodwill, positive attitude and also responsibility cannot be called to question as we are doing more than requested.

*I suggest brief meeting Monday and I am discussing this during the weekend but if Mr Micallef really wishes to sincerely attend, **then he must make a formal apology in front of you and offer his handshake as gentlemen should do, not continue to do things behind our backs. I think we cannot do more than that.***

Finally, the success of this forum depend andlay with our hard work, guaantee and commitment, and not the presence of an individual.

Thanking you earnest understanding and attention, I remain.

Yours sincerely
Martin Vella[4]

- Fil-5 ta' Mejju 2014, l-Ambaxxatrici Tuneżina kitbet lir-rikorrent appellat fejn għarrfitu bis-segwenti:[5]

Dear Mr. Micallef,

Further to the program I sent to Mr. Vella showing that you'll be a key speaker at the Forum, I received a letter from him, which I found very irrespectful towards you and towards me.

I am sorry to sent you his letter but this man is threatening you and I am afraid of his reaction.

From my side, be sure that I and my colleagues at the Embassy appreciate and respect you as well as the members of the Esteemed Libyan-Maltese Chamber of Commerce and if nobody from the chamber will come to our Forum we'll understand.

[4] Il-partijiet indikati bil-tipa grassa huma dawk li ġew immarkati bl-isfar fil-kopja ta' din l-email li ġiet eżebita mar-rikors promutur.
[5] Fol. 2.

But please, come to my reception on the 9th May.

I would like to add that this Forum will be an informative meeting and I hope that next year your chamber will be will be the initiator of the 2nd Libyan-Maltese Tunisian Forum, which will institute a Business Council related to the three Countries, under your supervision.'

- L-appellant jikkontendi illi fl-2013 l-appellat, bħala agent tad-ditta Konica Minolta, kien għamel pressjoni fuq impjegati tiegħu sabiex ibiegħulu '*printer'* kbir, liema bejgħ huwa ma riedx jikkonkludi għax il-kundizzjonijiet ma kinux tajbin għalih. Skont l-appellant, hekk kif irrifjuta illi jixtri l-imsemmi printer, l-appellat kien qal lill-ħaddiema tiegħu illi kien ser ipattihielu. Igħid li sussegwentement, l-appellat kien għamel intervista fuq ir-rivista *Economic Update*, li tiegħu kien l-editur. Iżda ftit qabel il-pubblikazzjoni, l-appellat kien ilmenta li din kienet mimlija żbalji u talab li ma tiġix ippubblikata b' dan illi rrifjuta jħallas il-prezz ta' €1,200 għaliha. L-appellant jikkontendi li dana in-nuqqas ta' ħlas kien attwalment bi tpattija talli huwa ma xtarax l-*printer* mingħandu. Bħala riżultat, sid ir-rivista *Economic Update*, ossija John Formosa ta' Network Publications Ltd, kien irrabjat ħafna u insista mal-appellant illi l-appellat ma setax jipparteċipa bl-ebda mod fil-konferenza illi kienu qed jorganizzaw għall-Ambaxxata Tuneżina.
- Skond l-appellat wara li rrifjuta illi jħallas għal din l-intervista, l-appellant beda jattakkah u saħansitra fil-31 ta' Jannar 2014 kiteb email ta' erbgħa faċċati sħaħ lill-prinċipal tiegħu tal-Konica Minolta ġewwa l-Ġappun u f'pajjiżi oħra, sabiex jattakkah.[6]

9. Fl-ewwel aggravju l-appellant argumenta li l-ewwel qorti għamlet apprezzament ħażin tal-fatti. Jibda billi jilmenta li l-ewwel qorti naqset milli tidħol fil-meritu tal-każ u ċioé jekk il-kliem li l-appellat ilmenta minnhom humiex libellużi jew le, iżda evalwat biss jekk l-*emails* in kwistjoni humiex strumenti ta' kitba li l-kontenut tagħhom jista' jitqies libellużа a tenur tal-Kap. 248 tal-Liġijiet ta' Malta, meta dan il-fatt ma kienx kontestat.

10. Dwar il-kliem li l-appellat iqies li hu malafamanti, l-ewwel qorti qalet:

'... l-fatt illi persuna jkollha problema ma' persuna ohra u ghalhekk ikun irrabjat ma' tali persuna ghal xi azzjoni illi huwa jhoss illi saret kontrih, ma jaghtih ebda licenzja sabiex jattakka ir-reputazzjoni tal-persuna l-ohra ma persuni ohra illi huma ghal kollox barra minn tali kwistjonijiet u illi ma kellhom ebda involviment fil-kwistjoni ta' bejniethom.

Il-fatt illi l-intimat hass il-htiega li jiccirkola l-email b'allegazzjonijiet u deskrizzjoni tar-rikorrent bhala 'negative, destructive and obstinate person' u

[6] Fol. 62 sa 65 tal-Avviz Nru 157/14.

> *bhala persuna illi "continue to do things behind our backs" mal-Ambaxxatrici Tuneżina w ic-Charge D'Affair taghha juri l-intenzjoni cara ta' l-intimat - illi jaghmel hsara lir-rikorrent u jipprova jimmalafama u jhassar ir-reputazzjoni tar-rikorrent ma' tali persuni.'*

11. L-appellant jikkontendi iżda li l-kliem '*persona non grata*' u '*undesirable or unwanted person*' kif ukoll kummenti bħal '*Mr Micallef is a negative, destructive and obstinate person*' għandhom jitqiesu bħala *value judgments* u *fair comment* da parti tiegħu, ħlief il-kliem '*persona non grata*' liema kliem huwa ġie dirett juża mid-Direttur tiegħu. Jinsisti ukoll li dan sar fl-isfond ta' theddid u raġunijiet oħra li jirriżultaw mill-provi. Jilmenta mbagħad li huwa qatt ma ntalab jispjega jew jivverifika l-*emails,* korrispondenza jew dokumenti mportanti oħra li deherlu li ġew skartati mill-Ewwel Qorti. B'riferenza għall-każistika tal-Qorti Ewropea għad-Drittijiet tal-Bniedem, argumeta ulterjorment li kuntrarjament għal-rapportaġġ ta' fatti, *value judgments* ma jistgħux jiġu ppruvati u l-Qorti għandha tieħu biss in konsiderazzjoni jekk hemmx bażi fattwali suffiċjenti sabiex isiru. Jisħaq ukoll li kien in *buona fede* u li s-sors tal-informazzjoni u l-kummenti li kiteb kienet attendibbli oltré li ġiet issostanzjata b'dokumentazzjoni. Ikompli billi jgħid li l-apprezzament tal-fatti żvolt mill-Ewwel Qorti kien għal kollox skorrett inkwantu huwa kien biss impjegat ta' Network Publications Ltd li kienet il-proprjetarja u tippubblika l-'*Economic Update*' u li ħallset għall-ispejjeż kollha tal-attività li saret u f'dan is-sens jirreferi għal dokumentazzjoni kopjuża ppreżentata mar-rikors tal-Appell tiegħu.

12. Din il-kawża hi biss dwar l-*email* li ntbagħtet lill-Ambaxxatriċi Tuneżina fit-2 ta' Mejju 2014. Email li ntbaghatet lill-Ambaxxata Tuneżina u lill-Ambaxxatriċi Tuneżina.

13. F'każ ieħor fejn il-Qorti tal-Maġistrati trattat allegazzjonijiet ta' libell u malfamazzjoni bil-mezz ta' *email*,[7] irreferiet għas-segwenti brani mill-ktieb ta' ***Gatley on Libel and Slander***:

> *'A comment is a statement of opinion on facts. It is comment to say that a certain act which a man has done is disgraceful or dishonourable; it is an allegation of fact to say that he did the act so criticised. "A libellous statement of fact is not a comment or criticism on any thing". But while a comment is usually a statement of opinion as to the merits or demerits of conduct, an inference of fact may also be a comment. There are, in the cases, no clear definitions of what is comment. If a statement appears to be one of opinion or conclusion, it is capable of being comment. (para. 697, pagna 294).*
>
> *…*

[7] ***Dr Charmaine Xuereb (ID 202764) u Mark Cilia La Corte (ID 381261) vs Bernice Ebejer (ID 435886M) u Raymond Gatt (ID 527575M)***, deċiż fil-11 ta' Novembru 2013

To succeed in a defence of fair comment the defendant must show that the words are comment, and not a statement of fact. He must also show that there is a basis of fact for the comment, contained or referred to in the matter complained of. Finally, he must show that the comment is on a matter of public interest, one which has expressly or implicitly put before the public for judgment or is otherwise a matter with which the public has a legitimate concern. If, however, the plaintiff can show that the comment was not made honestly or was actuated by malice, he will defeat the plea.'

14. Din il-Qorti tqis li l-kliem:

- *'Mr Micallef has problems with our company and with interests our company represents, and **has tried to defame us and slander us**, and **is always harming our interests wherever he is**'*;
- *'as we had given him plenty of opportunities and offered him our handshake in past, but he refused and **instead wanted only to harm us'**;*

Kliem li jallegaw fatti li jekk huma veri jistghu jigu verifikati. Għalhekk ma jistax jingħad li dak li nkiteb mill-appellant hu biss opinjoni. F'dan ir-rigward ma tressqux provi li jistghu jwasslu lill-qorti biex tikkonkludi li l-fatti allegati mill-appellant huma veri. Ghalkemm il-konvenut xehed dwar x'qalulu Andre Riberio u Steve Holland, baqa' ma ressaqhomx bhala xhieda. Għaldaqstant, l-ewwel qorti kellha dritt ma tibbazax id-deċiżjoni fuq dak li xehed l-appellant dwar x'kien qallu ħaddieħor li ma xehedx fil-kawża. Il-qorti zzid li l-fatt li kien hemm dizgwid bejn l-appellant u l-appellat jew Network Publications Limited, m'hijiex prova suffiċjenti li l-appellat għamel dak li allega l-appellant fl-email oġġett tal-kawża. L-istess jingħad fir-rigward tal-email datata 17 ta' Ottubru, 2013 li ppreżenta l-appellant u li suppost l-appellat kien bagħat lil Ribeiro, Holland u certu Festari, kif ukoll id-dokumenti l-oħra li ppreżenta l-appellant. Il-konklużjoni tibqa' li l-fatti allegati ma ġewx ippruvati, minkejja li l-appellant invoka d-difiża tal-verita tal-fatti (ara r-raba' eċċezzjoni).

15. Il-kliem *"Mr Micallef is not wanted and cannot come"*, zgur li m'huwiex malafamanti. L-awtur tal-email kien qiegħed sempliċiment jagħmilha ċara li ma kellux pjaċir bil-presenza tal-appellat fit-Tunisian Maltese Libyan Forum fit-8 u 9 ta' Mejju, 2014.

16. Margaret Brincat, li kienet taħdem mal-appellant u *partner* tiegħu, xehedet illi l-appellat kien biddel l-attitudni magħha ukoll wara l-imsemmija intervista u kellu atteġġament irrabjat iżda ma qalitx li kien ipprova jagħmel ħsara jew jinġurja lill-appellant jew ta' *Network Publications*, kif allega l-appellant.

17. Imbagħad il-kliem, *'Mr Micallef is a negative, destructive and obstinate person'*, jista' jikkwalifika bħala kumment. Pero' jista' jitqies bħala *fair comment* jekk bażat fuq fatti li jissemmew, ukoll b'mod ġenerali, lill-qarrej jew huma *'of public knowledege'*. F'dan il-kaz l-email ma fihiex riferenza għall-fatti, u b'hekk il-qarrej

tal-email ma setax jasal għall-konklużjoni. Għalhekk ma tirnexxix id-difiża ta' *fair comment* li l-appellant ta fil-ħames eċċezzjoni.

18. Dwar dik il-parti tal-aggravju tal-appellant fis-sens illi l-organizzatur tal-konferenza kienet Network Publications Limited, l-appellant hu l-awtur tal-email oġġett tal-kawża. L-appellant xehed li l-emails simili għal dik datata 25 ta' April, 2014, *"...ħriġniha fuq struzzjonijiet diretti mid-Direttur tagħna is-Sur John Formosa, li kien jaqra kull email, u japprova qabel nibgħatuha"*. Il-verżjoni tal-appellant m'hijiex korraborata minn John Formosa ġialadarba ma xehedx, u f'kull każ l-awtur tal-email kien l-appellant. Għalhekk irid iwieġeb personalment għal dak li kiteb u ffirma għalih, u m'għandux jedd jipprova jfarfar ir-responsabbilta' fuq ħaddieħor.

19. Għaldaqstant tiċħad l-ewwel żewġ aggravji.

20. Finalment l-appellant jikkontendi li l-*quantum* tad-danni huwa eċċessiv tenut kont l-kontenut tal-*email* in kwistjoni u n-numru limitat ta' qarrejja tal-kitba.

21. L-ewwel qorti ma spjegatx x'wassalha sabiex tikkundanna lill-appellant iħallas is-somma ta' elfejn ewro (€2,000). M'hemmx dubju li meta tiġi biex tillikwida d-danni li għandhom jitħallsu lill-attur f'dawn ix-xorta ta' kawżi, il-Qorti tal-Maġistrati (Malta) għandha diskrezzjoni wiesgħa.

22. L-email in kwistjoni intbagħtet lill-Ambaxxata Tuneżina u l-Ambaxxatriċi Tuneżina, li evidentement ma tatx piż għal dak li kiteb l-appellant fir-rigward tal-istima li kellha fil-konfront tal-appellat. Tant hu hekk li fl-email datata 5 ta' Mejju, 2014 assiguratu, *'I and my colleagues at the Embassy appreciate and respect you as well as the members of the Esteemed Libyan-Maltese Chamber of Commerce'*. Dikjarazzjoni li fiha nnifisha hi vot ta' fiduċja fl-appellat.

23. Hu fatt li:
    i. l-email intbgħatet personalment lill-ambaxxatriċi Tuneżina u lill-ambaxxata Tuneżina. F'Malta l-ambaxxatriċi Tuneżina qegħda tirrapreżenta Stat barrani;
    ii. Il-fatti allegati fil-konfront tal-appellat ma jpinġuhx bħala persuna ta' fiduċja, u dan hu wkoll rilevanti meta tqies li l-appellat jopera fil-kummerċ u hu President tal-Libyan Maltese Chamber of Commerce. Kliem li jattakka r-reputazzjoni tal-appellat;
    iii. L-email intbgħatet minħabba diżgwid li Network Publications Limited kellha ma' Anthony Micallef dwar intervista miegħu li kellha tiġi pubblikata fir-rivista Economic Update. Jirriżulta li l-appellat kien irrifjuta li jħallas il-kont. Irrispettivament minn min seta' kellu raġun, fil-fehma tal-qorti l-appellant ma kellu qatt iħallat dak id-diżgwid mal-Forum li sar

bejn it-8 u 9 ta’ Mejju, 2014 u għal liema attivita’ l-appellat ma tħallix jattendi. Dan meta tikkunsidra li l-appellat kien ser jattendi bħala President tal-Maltese Libyan Chamber of Commerce u mhux fil-vesti personali tiegħu;

24. Pero’ min-naħa l-oħra:

i. M’hemmx prova li l-email kellha xi effett negattiv fir-rigward tal-kariga ta’ President li l-appellat kien jokkupa fil-Libyan-Maltese Chamber of Commerce, jew tan-negozju tiegħu jew fir-relazzjoni li l-appellat kellu mal-Ambaxxata Tuneżina;

ii. M’hemmx prova li l-email tat-2 ta’ Mejju, 2014 intbagħtet lil iktar nies;

iii. M’hemmx prova li minħabba l-email l-appellat sofra danni materjali;

iv. Kważi minnufih l-appellat kien infurmat mill-ambaxxatriċi personalment dwar il-fiduċja li hi u l-kollegi tagħha fl-Ambaxxata kellhom fih. Kien evidenti li ma taw l-ebda importanza għal dak li kiteb l-appellant;

v. Permezz ta’ dikjarazzjoni datata 6 ta’ Mejju, 2014 il-Libyan Maltese Chamber of Commerce ddikjarat li kienet qegħda tikkonferma, *“.. its support, confidence and full trust in the President of the Libyan-Maltese Chamber of Commerce, Mr Anthony Micallef”*;[8]

vi. Għal finijiet ta’ likwidazzjoni ta’ danni l-qorti m’għandhiex tqis emails oħra li Martin Vella bagħat li fihom attakka r-reputazzjoni tal-appellat. Hekk per eżempju l-email tal-31 ta’ Jannar, 2014 li ntbgħatet lill-uffiċjali tal-Konica Minolta. Emails li m’humiex inklużi fit-talba li għamel l-appellant bir-rikors promotur li ppreżenta fit-2 ta’ Mejju, 2014;

Magħmula dawn il-konsiderazzjonijiet il-qorti tqies li bħala danni morali hi iktar f’lokha s-somma ta’ **elf ewro (€1,000)**.

Għal dawn il-motivi sa fejn kompatibbli ma’ dak li ngħad hawn fuq tilqa’ parzjalment l-appell tal-appellant, u tvarja s-sentenza tat-22 ta’ Jannar 2018 billi minflok tikkundanna lill-intimat iħallas lir-rikorrent is-somma ta’ elf ewro (€1,000). Għall-kumplament tikkonferma s-sentenza tal-ewwel qorti.

Spejjeż tal-appell jinqasmu in kwantu għal 10% a karigu tal-appellat u 90% a karigu tal-appellant.

Anthony Ellul.

[8] Fol. 57 tal-kawża 157/2014.