



**COURT OF MAGISTRATES (MALTA)
AS COURT OF CRIMINAL JUDICATURE**

Magistrate Dr. Monica Vella LL.D., M.Jur

Reference Number 290/2020

**Police
(Inspector Eman Hayman)**

vs

Karlis Meiers

Today, 13 January 2021

The Court;

Arraigned under arrest:

“Karlis Meiers, holder of Maltese Residence Permit 59998A;

And accuse him with having on the 16th June 2020 at about 02:45am and the preceding hours and/or preceding days in Marsaskala:

1. Caused his mother Parsla Meiere and sister Maija Meiere, fear of violence to be used against them or their property or against the person or property of any of their ascendants or descendents whilst residing with them;

2. Insulted, threatened or offended in either a verbal exchange or any other means, his mother Parsla Meiere and sister;
3. Hurling insults and threats not mentioned within any part of the Criminal Code, or if threatened went beyond the proportional response after being provoked.

The Court is humbly requested to impose a protection order, effective also during trial procedures against Karlis Meiers to the benefit of both Parsla Meiere and Maija Meiere.

The Court is also humbly requested, that if case of established guilt, in a bid to ascertain the safety to both Parsla Meiere u Maija Meiere and in order to maintain public order, together with the inflicted punishment, impose on Karlis Meiers a legal obligation which which carries a fine established by the Court by applying Article 383 of the Criminal Code of the Law of Malta for period of time which the court feels necessary.”

Having seen the records of the case.

Having seen the Attorney General’s consent for this case to be dealt with summarily.

Having heard all the evidence.

Having considered all the evidence and documents brought forward.

Having heard both the prosecution and the defence declare that they will be resting on the records of the case.

Having seen the report of the court appointed expert Dr. Joseph Cassar marked JC at page 72 of the proceedings.

Having seen the pre-sentencing report marked X at page 102 of the proceedings.

Having seen that the case was adjourned for judgement.

Considers:

That from the evidence brought forward the Prosecution has proved its case up to the degree requested by law in the Criminal field.

That this is a case of domestic violence whereby the accused's mother requested police intervention.

That this is not the first time that such an incident had happened in the accused's home.

That, however, both the accused's mother and sister declared that they do not want to continue with these proceedings but they want their son/brother to be helped because he suffers from an acute medical condition which is under control once he takes the necessary medication.

That from the report of the court appointed expert Dr. Joseph Cassar it results that the accused suffers from a medical condition which however, can be kept under control and that the incident happened because the accused was not taking his medication.

That from the pre-sentencing report it results that the accused suffers from certain medical conditions, that at the time of the commission of

the offence he was not taking his medication, that once he was taking treatment at Mount Carmel Hospital his situation was under control, that the accused also suffers from abuse of substances and that the accused needs rehabilitation in order to be in a position to reintegrate in society, find work and become financially independent.

Considers:

That while there is no doubt that the accused has committed the acts upon which he has been charged, the Court considers that it has also been proved that when he committed the said acts the accused was not in control of his mental capacities and this due to the conditions from which he suffers.

The Court makes reference to Sir Anthony Mamo's Notes whereby it is stated:

“It will be observed at once that our law has not bound itself by any specific 'a priori' test of responsibility in insanity. It has refrained from any attempt to define the conditions under which a man can plead mental unsoundness as an excuse for wrongdoing, wisely leaving each case to be decided in the light of its particular circumstances, usually with the assistance of medical experts ... our law imposes no 'a priori test'. The question, when it arises, is one of fact: it has, that is to say, to be decided whether the defendant had a mental disease and, if so, whether it was of such a character and degree, as to take away the capacity to know the nature of his act and to help doing it. There must be the two constituent elements of legal responsibility in the commission of every crime:

- (1) *capacity of intellectual discrimination; and*
- (2) *freedom of will.*

If it is true, as a matter of fact, that mental disease can so affect the mind as to subvert the freedom of the will, and thereby destroy the power of the victim to choose between the right and the wrong, although he perceives it, a person so affected is not responsible criminally for an act done under the influence of such controlling disease. The question whether it be true in fact that insanity may have this effect of subverting the will is one of fact: it is a scientific one for experts and the truth of their testimony concerning the existence of such disease is in each case a question for the jury. And that scientists assert the existence of such disease we have already seen. Mandsley ('Responsibility in Mental Diseases', 4th Edition, p.110) writes: "The nature of a crime involves two elements: first the knowledge of its being an act contrary to law, and, secondly, the will to do or to forbear doing it. There are insane persons who, having the former are deprived by their disease of the latter: who may know an act to be unlawful but may be impelled to do it by a conviction or an impulse which they have not the will or the power to resist." Our Law, therefore, recognises insanity as an excuse not only when it deprives the victim of his power of distinguishing the physical and moral nature and quality of the act charged as an offence but also when it deprives him of his faculty of choice so as to exclude a free determination of his will in relation to that act. Insanity thus embraces all forms of disease of the mind, the word 'mind' being used as a general name for the combined operations of intellect and volition."

The Court is well aware that the defence did not raise the plea of insanity, but the Court is of the opinion that this excerpt suits well the case before it. The Court has no doubt that the accused's acts were prompted by an outside force which he could not resist and though knowing that such acts were illegal he was deprived of his faculty of choice and free will in relation to such acts.

Decide:

The Court, therefore, after having considered all the evidence brought before it, finds the accused guilty as charged, and after having considered the nature and gravity of the offences the accused is charged with, the conviction sheet of the accused and the professional reports with regard to the accused the Court is of the opinion that an effective prison term is not adequate in this case.

The Court, therefore, having seen Article 251B, and Article 339 (e) of Chapter 9 of the Laws of Malta and Article 7 of Chapter 446 of the Laws of Malta puts the accused under a Treatment Order for a period of two years, and to this effect orders that the accused is held under custody in Mount Carmel Hospital as catered for under Chapter 525 of the Laws of Malta during this period, that the accused is evaluated by a team of professionals who are to draw up a treatment plan with specific reference to the conditions which the accused suffers from and which treatment is to include rehabilitation from substance abuse, should this also result. The said team of professionals are to draw up a report every three months with regard to the progress or otherwise of the accused.

The Court orders that the accused be held under such custody until he is released by Court after having been certified by three specialists, one of whom will be the responsible specialist, who will present a report regarding the release of the accused.

The Court, thus, orders that this judgement be communicated to the Commissioner for the Promotion of Rights of Persons suffering from Mental Conditions.

The Court explained to the accused in clear and simple language his obligations arising out of this judgement.

Magistrate Dr. Monica Vella LL.D., M. Jur.

Angelo Buttigieg
Deputy Registrar