



**QORTI TAL-MAGISTRATI (MALTA)
BHALA QORTI TA' GUDIKATURA KRIMINALI**

**MAGISTRAT DR. JOSEPH MIFSUD
B.A. (LEG. & INT. REL.), B.A. (HONS.), M.A. (EUROPEAN), LL.D.**

**Il-Pulizija
(Spettur Audrey Micallef)**

vs

Clyde Xuereb Mc Donnell

Illum 30 t' April 2021

Kumpilazzjoni numru: 76/2021

Il-Qorti,

Rat l-imputazzjonijiet migjuba kontra l-imputat Clyde Xuereb Mc Donnell, detentur tal-karta tal-identita' bin-numru 523493(M), billi huwa akkuzat talli nhar it-28/01/2021 ghall-habta tal-4:30pm u fis-sieghat u/jew fil-granet u/jew gimghat u/jew xhur ta' qabel gewwa Hamrun u diversi postijiet gewwa dawn il-gzejjer, b'diversi atti maghmulin fi zminijiet differenti izda li jiksru l-istess dispozizzjoni tal-ligi u li kienu maghmula b'rizoluzzjoni wahda:

1. Ikkaguna lil martu u cioe` Antonella Xuereb Mc Donnell li tigi wkoll omm it-tifla tieghu Norah, fastidju meta gab ruhu b'mod li missu kien jaf li kien qed ikun tali fil-prezenza tal-imsemmi minuri.

2. Ikkaguna lil martu u cioe` Antonella Xuereb Mc Donnell li tigi wkoll omm it-tifla tieghu Norah, biza' li se tintuza vjolenza kontriha jew kontra l-proprjeta' taghha jew kontra l-persuna jew il-proprjeta' ta' xi hadd mill-axxendenti jew dixxendenti taghha.

Akkuzat talli nhar it-28/01/2021 ghall-habta tal-4:30pm ta' qabel gewwa l-Hamrun:

3. Volontarjament ikkaguna hsara fil-gisem jew fis-sahha u cioe` offiza ta' natura hafifa ta' importanza zghira fuq il-persuna ta' Antonella Xuereb Mc Donnell, hekk kif iccertifika Dr. Gabriel Borg (Med Reg 4242) mill-klinika tal-Furjana.
4. Insulenta, hedded jew ingurja bi kliem jew b'mod iehor lil Antonella Xuereb Mc Donnell.
5. Ghamel ingurji jew theddid mhux imsemmija band'ohra fil-kodici kriminali jew, jekk kien ipprovokat, ingurja b'mod li hareg barra mil-limiti tal-provokazzjoni.

Il-Qorti giet gentilment mitluba li tohrog ordni ta' protezzjoni, inkluza fil-mori tal-kawza kontra Clyde Xuereb Mc Donnell a beneficciu ta' Antonella Xuereb Mc Donnell u l-familjari taghha u dan fit-termini tal-Artikolu 412C tal-Kap. 9 tal-Ligijiet ta' Malta.

Il-Qorti giet mitluba wkoll f'kaz ta' htija, sabiex tippovdi ghall-persuni ta' Antonella Xuereb Mc Donnell jew sabiex tinzamm il-bon ordni pubbliku, flimkien mal-piena applikabbli ghar-reat, torbot lil Clyde Xuereb Mc Donnell b'obligazzjoni tieghu nnifsu taht penali ta' somma ta' flus li tigi ffixsatta mill-Qorti billi tapplika l-Artikoli 383 et seq. tal-Kap. 9 tal-Ligijiet ta' Malta, ghal zmien li thoss xieraq.

Il-Qorti giet gentilment mitluba sabiex f'kaz ta' htija, tikkundanna lill-akkuzati għall-hlas ta' spejjez li jkollhom x'jaqsmu mal-hatra ta' esperti jew periti fil-proceduri hekk kif ikkontemplat fl-Artikolu 533 tal-Kapitolu 9 tal-Ligijiet ta' Malta.

Illi meta ssejhet il-kawza l-Parte Civile irtirat il-kwerela u għazlet li ma tixhidx.

L-Ufficcjal Prosekutur iddikjarat li l-unika xhud tal-incident hija l-Parte Civile.

Il-Prosekuzzjoni iddikjarat li ma kelliex aktar provi x'tipproduci.

Id-difiza ma kelliex provi x'tipproduci.

Ikkonsidrat:

Il-Qorti tagħmel referenza għad-decizjoni tagħha tat-2 ta' Settembru 2020 fl-ismijiet **The Police (Inspector Josef Gauci) vs. Ronald David Antoine Williams** fejn iddikjarat li:

In this particular case it is evident that the Court, after the police officer confirmed the report on oath and having considered the evidence produced during the sitting of the 2nd September 2020 in support of the report, is not satisfied that prima facie there were sufficient grounds for committing the accused for trial.

The partner of the accused took the witness stand to declare under oath that she wished to withdraw her complaint and that she did not wish to testify against her partner.

The Court observes that often the prosecution's case hinged upon the testimony of the alleged victim who, when called to testify against a spouse or partner, would refuse to do so, as she or he had every right to do at law.

Unfortunately, in such circumstances, the alleged victim is solely responsible for the final outcome of the case, namely, the acquittal of the alleged aggressor,

Such an emphatic refusal by the alleged victim effectively frustrated all the work put in by police officers and social workers, as well as, last but not least the courts who, after devoting time and effort to hear such cases, were left with insufficient evidence to convict the alleged aggressor.

Violence within the family is always wrong and can never be justified, no matter what the circumstances.

DECIDE:

Il-Qorti ghalhekk ma tistax issib lill-imputat hati minhabba nuqqas ta' provi u tilliberah mill-imputazzjonijiet migjuba kontrih.

Dr. Joseph Mifsud
Magistrat

Margaret De Battista
Deputat Registratur