



The Court of Magistrates (Malta)

As a Court of Court of Criminal Judicature

Magistrate Dr. Nadine Lia

B.A., LL.M(Kent), LL.D; Barrister at Law (England & Wales)

The Police

(Inspector Kevin Pulis)

vs

Aiman Ali Mousa Mousa

The Court after having seen the charges issued against Aiman Ali Mousa Mousa of 37 years, son of Mousa and Masouda, born in Tripoli Libya, on the 23/03/1985 and residing at Savoy Gardens, Blk B, Fl 12, Triq Luqa Briffa, Gzira and holder of Maltese ID Card **0146666A**;

You are hereby accused for having in Qormi, on the 20th October, 2021 at around 14:00hrs and/or previous time;

1. Without the intent to kill or to put the life of any person in manifest jeopardy, caused grievous injuries on the body of Mark Colombo, as certified by Dr. Andrew Palmier (Med Reg 3990) from Mater Dei Hospital;

The court is being humbly requested for the purpose of providing for the safety of **Mark Colombo** or for the keeping of the public peace or for the purpose of protecting the injured person from harassment or other conduct which will cause a fear of violence, issue a protection order against the accused in terms of article 412C of Chapter 9 of the Laws of Malta.

The Court is being humbly requested to order the accused for the payment of the costs incurred in connection with the employment in the proceedings of any expert or referee, in virtue of article 533(1) of Chapter 9 of the Laws of Malta;

Having seen that during the examination of the defendant in the sitting of the 26th January 2023 done in accordance with article 392(1) of the Criminal Code, the defendant pleaded guilty to the charges against him¹ and this after the Court repeatedly gave him the opportunity to seek legal advice from his legal counsel and after the Court was authorised to proceed nonetheless;

In view of the defendant's declaration, the Court warned him in the most solemn manner of the consequences arising out of his guilty plea and granted him a reasonable time within which to retract such guilty plea should he so wish. After the Court granted this time to the accused, and after giving him the option to seek advice from his legal counsel, the accused reiterated that he is guilty as charged.

In view of this declaration, duly reiterated, the Court has no option but to find the accused guilty as charged in accordance with article 392A of Chapter 9 of the Laws of Malta and could proceed to deliver judgment against him.

¹ Page 11-12 act of proceedings

Having seen that there exist no valid reasons in accordance with article 392A(3) of Chapter 9 of the Laws of Malta for the Court to doubt the validity of such plea of admission, or that the accused is not guilty of the crimes with which he is charged. Therefore, the crimes are sufficiently proven.

Having seen the records of the proceedings as well as the documents filed together with the charge sheet and the particular circumstances of this case;

Having heard submissions by the parties on the punishment;

Having seen the case was put off for judgment for today;

Having Considered

The facts of the case

This case concerns an incident that took place between the defendant and the victim whereby he was assaulted and suffered grievous injuries as a result.

Having considered

The punishment

The Court in its deliberations concerning the punishment took note of the following factors:

- The early admission of the defendant. The defendant registered a plea of guilt in the first sitting and therefore at the earliest opportunity in the proceedings. Therefore, the defendant should benefit from the fact that he registered an admission during the early course of proceedings and this shall serve in his favour in the circumstances of the cases. This is in

line with the principles espoused in local case law that by registering an early plea, the Court is saved from entering into unnecessary expenses as well as administratively be able to expedite matters quicker. The Court here makes reference to the cases **Ir-Repubblika ta' Malta vs. Nicholas Azzopardi**², **Il-Pulizija vs. Emmanuel Testa**³, as well as legal scholars **ARCHBOLD Sentencing Guidelines 2021**⁴ and **BLACKSTONE'S CRIMINAL PRACTICE**⁵ on this point.

- The accused has a clean criminal record (applicable only to the period that he has been living in Malta) and it is the first time that he has been charged with offences of this nature.⁶
- The prosecution in its submissions to the Court on the appropriate penalty to be considered, reiterated that it was not insisting on a term of effective imprisonment as a punishment and that a non custodial alternative to imprisonment as well as a Restraining Order in favour of the victim would suffice.
- The defence in its final submissions concurred with the prosecution that a non custodial alternative to imprisonment would be the most effective form of punishment considering the circumstances of the case.

Whilst the Court is not bound to apply the proposed terms of punishment by the prosecution and defence, the Court notes that the suggested punishment is legally tenable.

² Qorti Kriminali deciza 24 ta' Frar 1997

³ Qorti tal-Appell Kriminali , [7.7.2002]

⁴ Thomson Reuteurs, S-29

⁵ Blackstone Press Limited – 2006 edition

⁶ Page 3 acts of proceedings

- Article 142(1) of the Criminal Justice Act 2003 in England establishes five principles that should be considered when calibrating the appropriate punishment:

(a) the punishment of offenders (b) the reduction of crime (including its reduction by deterrence) (c) the reform and rehabilitation of offenders (d) the protection of the public (e) the making of reparation by offenders to persons affected by their offence.

Decide

The Court, upon the unconditional guilty plea registered by the accused charged and after having seen article 216 of the Criminal Code of Chapter 9 of the Laws of Malta, finds Aiman Ali Mousa Mousa, upon his voluntary admission, guilty as charged of all the charges against him and releases him on the condition that he does not commit another offence within the next twenty four (24) months in accordance to article 22(1) of Chapter 446.

The Court explained to the accused the consequences and obligations emanating from the sentence in plain and simple language in accordance to article 22(3) of Chapter 446 of the Laws of Malta.

Furthermore the Court after having seen article 382A of Chapter 9 of the Laws of Malta orders the issuance of a Restraining Order against the defendant in favour of the victim Mark Colombo for a period of two (2) years from the date of remission of this judgment which also gives affect to the provisions mentioned in article 412C(3)(6)(8)-(11) which shall apply *mutatis mutandis*.

Communication: Commissioner of Police.

Furthermore, in view of the fact that no experts were appointed in this case, the Court abstains from taking further cognisance of the prosecutions requests in terms of Article 533 of Chapter 9 of the Laws of Malta.

Finally, the Court, after having seen Article 392A of the Criminal Code orders that this judgment together with the records of the proceedings be transmitted to the Attorney General within six working days in terms of law.

Delivered today the 14th March 2023, at the Courts of Justice in Valletta, Malta.

**Dr. Nadine Lia
Magistrate**

**Lorianne Spiteri
Deputy Registrar**