



MALTA

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

**MAGISTRAT DR.  
CONSUELO-PILAR SCERRI HERRERA**

Seduta tat-28 ta' Gunju, 2004

Numru. 390/2004

**Police  
(Police Inspector Maurice Curmi)**

**- vs -**

**Nicholas Needham residing at Flat 9, Tulip Flats,  
Quintinus Str, Qawra, Malta.  
(Identity Card No 15581A)**

The Court;

Having seen that the accused was arraigned before her and charged in Gozo during the months of March, April, May, and June 2004 with several acts committed by him, even if at the different times, constitute violations of the same provision of the law and are committed in pursuance of the same design as per Article 18 of the Criminal Code, failed to give the full maintenance (Lm 95 weekly) to his wife Patricia and minor son Benjamin as

ordered by Magisterial Gozo Courts (Voluntary Jurisdiction) on the 16<sup>th</sup> November, 1999.

The Court heard the accused's wife give evidence on the sitting of the 24<sup>th</sup> June 2004 unless she confirmed on oath that in the months of March, April and May 2004 she received much less maintenance that was due to her according to the decree of the court of Voluntary Jurisdiction dated 16<sup>th</sup> November 1999. She confirmed however that the accused was passing on the maintenance to his son independently from what he was giving to her.

The defence exhibited a Court judgement given on the 16<sup>th</sup> October, 2003 in the names "Patricia Ann Needham – vs- Dottor Carmelo Galea noe", delivered by the Courts of Magistrates (Gozo) in its Superior Jurisdiction whereby the Court held that the maintenance due to Patricia Anne should be that of Lm200 and that due to their son Benjamin till he is of age in the sum of Lm180 per month.

It transpires that the minor son Benjamin is no longer a minor as from 18<sup>th</sup> February 2004.

The Court heard the parties plead in the sitting of the 28<sup>th</sup> June 2004. The prosecution is stating that since the Court judgement dated 16<sup>th</sup> October 2003 is still sub judice because an appeal has been lodged by Patricia Ann Needham, this judgement should have no effect on the original decree given by the courts of Voluntary Jurisdiction on the 16<sup>th</sup> November 1999 whereas the defence believed that once the original decree given by the Courts of Voluntary Jurisdiction has been altered by other court of law that decree is no longer valid.

The Court here makes reference to a number of judgements given by the court of Criminal Appeal (Malta) in the name "Police vs Lawrence Cilia" decided 10<sup>th</sup> March 1995, "Police vs Carmela Farrugia" dated 23<sup>rd</sup> January 1998 and a more recent one "Police vs Maria Mallia" dated 8<sup>th</sup> May 1998 unless it was clearly state that the obligation of paying maintenance as stipulated in articles

Kopja Informali ta' Sentenza

338 (2) of Chapter 9 of the Laws of Malta remains in vigore so long as the decree authorising such maintenance is not altered, revoked or changed by a subsequent court be that of the civil court on the agreed Court of Voluntary Jurisdiction.

Thus in line with the above judgement this court is of the opinion that since the original decree given by the Court of voluntary jurisdiction on the 16<sup>th</sup> November 1999 was subsequently altered by the other decree given on the 16<sup>th</sup> November 1993 by the First Hall Civil Court that original decree is no longer valid and consequently has no effect.

Today the position regarding the obligation of maintenance is that ordered by the court and dated the 16<sup>th</sup> October 2003 and remains thus until it is amended, revoked or altered by a subsequent court.

Consequently since this latter decree was issued by the civil court is dated prior to the issue of the present writ of summons the Court has not alternative but to find the accused not guilty of this charge and acquits him from it.

**< Sentenza Finali >**

-----TMIEM-----