



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

**MAGISTRAT DR.
JACQUELINE PADOVANI**

Seduta tat-18 ta' Jannar, 2005

Numru. 409/2004

**Police
Inspector Pierre Micallef Grimaud
Inspector Josric Mifsud**

vs

Lee Demanuele

The Court,

Having seen the charges brought against the accused with having on these islands in Valletta on the 25th May, 2004 at around 11.00am friviled or threatened or caused a bodily harm to persons lawfully charged with a public duty while in the act of discharging their duty or because of having discharged such duty, or with intent to intimidate or unduly influence them in the discharge of such duty in breach of Section 95 of Chapter 9 of the Laws of Malta;

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Moreover for having on the same day, time and place and circumstances assaulted or resisted by violence or acted force not amounting to public violence, persons lawfully charged with a public duty when in execution of the law or of a lawful order issued by a competent authority in breach of section 96 of Chapter 9 of the Laws of Malta;

And moreover for having on the same day, time, place and circumstances caused slight bodily harm on the person of PC 922 Valhorm Megati as certified by Dr J Balzan MD of the Floriana Health Centre, in breach of section 221 of Chapter 9 of the Laws of Malta;

Having heard the evidence tendered on oath;

Having seen the consent of the Attorney General and of the accused for the case to be heard with summarily proceedings;

Having seen the judgement exhibited by defense as document D;

Having heard the oral submissions of the parties;

Deliberates:

From the evidence tendered by the Prosecution it appears that Inspector Mifsud was informed that there was a scuffle in the lock up area in Court and that the accused had assaulted a police officer. Inspector Mifsud took the statement of the accused where he alleged that it was the police who assaulted him and that he was rescued by the officers of Corradino Correctional Facility.

PC 922 Valhorm Medati a fol. 10 stated that he was in charge with the duty of escorting the accused to and from Court on the day in question and after the Court hearing, he had escorted the accused down to the lock up. In the vicinity of the gates the accused started to spit at PC 1095. PC 922 tried to stop him but instead got spat at himself. Indeed PC 922 further stated that the accused

raised his hand cuffs and tried to assault PC 1095 and that he intervened and got hurt himself (Vide certificate).

PS 547 Agius corroborated the evidence given by PC 922 and said that the accused had insulted inspector Tonna by addressing as “pig” and “dog”, and this during a Court hearing before Magistrate Vella, where after he was fined fifty pounds. After these proceedings ended, the accused came out of the Court room and continued to insult Inspector Tonna in the same manner and also uttered foul language. PC 547 added that the accused made threatening gestures towards the same inspector that is gestures indicating the slitting of throats. He kept trying to assault Inspector Tonna and had to be stopped by police officers.

Inspector Mario Tonna corroborated the evidence given at page 18 to 20, confirmed the insults he received from the accused and the obscene language used.

PC 1095 corroborated the evidence tendered by the police officers stating that accused spat on him, threatened to kill his family once out of prison, he added that when they got close to the lifts in Court, the accused offered resistance and started lashing out with his handcuffs and spat on him again.

Document PCM at page 14 is the medical certificate regarding slight injuries on Valhmo Megati.

The accused chose not to give evidence and produced no witnesses on his defence.

Deliberates:

The facts of this case are rather enough straight forward, indeed it seems evident that the accused seemed to have a personal grudge against the police officer who was prosecuting his case before the Magistrate's Court. Indeed he was admonished by that Court and fined. However this seems to have had no other effect than fuelling the fire for the accused redoubled his offensive

attitude and try to assault the police inspector, offered resistance to the police and actually injured slightly another police officer Valhmar Medati, PC 922 (vide certificate at page 14).

The Court cannot but find the efforts of Defense counsel admirable, however in the face of such overwhelming evidence against the accused, the Court cannot but find the Prosecution's evidence as credible and precise.

The accused is charged with offences under article 95 and 96 of Chapter 9 of the Laws of Malta.

Article 95 provides:

“Who so ever in any other case not included in the last preceding two sections shall revile or threaten or cause a bodily harm to any person lawfully charged with a public duty while in the act of discharging his duty or because of his having discharged such duty or with intent to intimidate or unduly influence him in the discharge of such duty shall on conviction be liable to punishment established for the vilification, threat or bodily harm where not accompanied with the circumstances mentioned in this section increased by one degree”.

Article 96 provides:

“Who so ever shall assault or resist by violence or active force not amounting to public violence any person lawfully charged with a public duty when in the execution of the law or of a lawful order issued by a competent authority shall on conviction

There is not doubt in the Court's mind that all requisite elements of the above mentioned offences have been proven beyond reasonable doubt. Apart from this there is also the slight bodily harm caused to PC 922 which has already been satisfactory proven according to Law.

The Court, in considering the appropriate punishment to be awarded in this case has weighed the gravity of the

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resistance and vilification together with the fact that the accused was already scheduled to begin a rehabilitation program at SATU.

Therefore the Court finds the accused guilty as charged and after having seen his criminal record and his age, and after examining article 95 and article 96 and 221 of Chapter 9 of the Laws of Malta, condemns him to six months imprisonment and recommends the Director of CCF that the accused commences his rehabilitation program with SATU without delay.

The period spent in preventive custody is to be deducted from the above mentioned prison sentence. The Court furthermore orders that a copy of the judgement be notified to the Director of CCF.

< Sentenza Finali >

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