MALTA

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

MAGISTRAT DR.
SAVIOUR DEMICOLI

Seduta tas-17 ta' Jannar, 2006

Numru 1011/2004

Il-Pulizija
(Spettur Denise Mula)

vs.

Christopher Zahra

Il-Qorti,

Rat l-imputazzjonijiet li permezz taghhom Christopher Zahra ta' 18 il-sena, ta' nazzjonalita` Maltija, iben Raymond u Veronica nee` Stanyer, imwieled Northampton l-Ingilterra fil-21 ta' Mejju 1986, residenti 1A, G.T. Court, Triq La Valette, San Pawl il-Bahar u detentur ta' karta tal-Identita` numru 195593(M) gie akkuzat:

Talli fl-10 t'Awissu 2004 u fil-jiem ta' qabel f'dawn il-gzejjer u cioe` gewwa l-fond immarkat bhala The Bell, gewwa Triq it-Tamar, il-Qawra Malta, impjega jew ta xoghol lil

persuna li ma kienitx persuna ezenti u li ma kellhiex licenzja moghtija lilha ghal dak l-impjieg jew xoghol skond id-disposizzjonijiet tal-Kap. 217 tal-Ligijiet ta’ Malta,

U aktar talli fl-istess zmien u cirkostanzi bhala l-principal, jew il-persuna li impjegat persuni ohra, whole-time, part-time jew xort’ohra b’kuntratt definit jew indefinit bi prova, naqas li jinnotifika lill-Korporazzjoni tax-Xoghol u Tahrig b’dan l-impjieg kif hemm fl-Avviz Legali 110 tas-sena 1993. (3a u 10).

Semghet provi.

Rat l-Atti u d-dokumenti esebiti.

Rat il-Kunsens tal-Avukat Generali esebit bhala Dok DM 3 li jinsab a fol. 6 tal-Process u nnutat li l-imputat m’ghandux oggezzjoni li l-kaz tieghu jigi trattat bi procedura sommarja.

Fl-ewwel lok taghmel referenza ghad-deposizzjoni moghtija minn Gary Smith fis-Seduta tas-17 ta’ Jannar 2005 fejn dan ix-xhud, *inter alia*, qal: “I confirm that on the 10th of August, 2004, I was at *The Bell* situated at Triq it-Tamal, Qawra. I wasn’t working in this establishment. Christopher Zahra, whom I am recognising as the accused in the Courtroom is a friend of mine and I wish to add that since my father has recently passed away and my mother was in England sorting things out, I was spending some time in Malta as a guest of Christopher Zahra. I was present in this establishment *The Bell* which is a bar as a guest of Christopher Zahra. I wish to state I was there having a drink, however work suddenly got quite heavy and Christopher Zahra asked me if I could add up a bill. I sat down, wrote up this bill for Christopher Zahra, then the Immigration Police came. I did not help in any ther way accused. I was promised no payment for adding this bill for Christopher Zahra. Accused only asked me to add up this bill for him because the workload at that moment was quite heavy.

What I did was I saw the prices on the Menu and I wrote them down on a piece of paper for this one particular bill. On that day Edmond Zahra, Christopher Zahra's father, was not present in the bar because he was ill. It was Christopher Zahra who told me to do this as a favour for him." (Sottolinjar tal-Qorti).

In kontro-ezami l-istess xhud fl-istess Seduta tas-17 ta' Jannar, 2005 qal: "I wish to make a correction in the sense that Christopher Zahra's father is Raymond Zahra and I know that it it Raymond Zahra who is the owner of this establishment.".

In ri-ezami l-istess xhud fl-istess Seduta tas-17 ta' Jannar, 2005 qal: "I am being asked by the Prosecution who was in charge on that day at *The Bell* because Mr Raymond Zahra was not there. I reply that I do not know."

Issir ukoll referenza ghad-deposizzjoni ta' Alexander Fenech moghtija fis-seduta tat-8 ta' Marzu, 2005 fejn dan ix-xhud qal: "In rappresentanza tal-Ministeru tal-Gustizzja u Intern nghid illi rigwardanti s-sezzjoni tad-Dipartiment tas-Citizenship and ex patriate affairs nghid illi jiena gejt mitlub naghmel verifiki rigwardanti work permit ta' Gary Smith Id card number 26702A u dan b'data tat-twelid 1 ta' Novembru 1988. Nghid illi fis-7 ta' Jannar 2005 applika Raymond Zahra ghan-nom ta' Gary Smith ghal work permit ta' waier ma Queen's operators Limited u dan ghar-restorant The Bell, Qawra. Nghid illi l-permess hareg fis-7 ta' Marzu 2005. Nghid dan Gary Smith qabel ma kellux work permit."

Issir ukoll referenza ghad-deposizzjoni moghtija minn PS 90 Jeffrey Gerada fis-Seduta tal-4 ta' Mejju, 2005 fejn dan ix-xhud qal: "Nghid illi fl-10 ta' Awissu tas-sena 2004 u dan ghal habta tad-disgha u nofs u hamsa ta' bil-lejl (9.35pm) jiena flimkien ma PC 1327 konna ghamilna spezzjoni gewwa bar and restaurant jismu "The Bell" gewwa Triq it-Tamar, il-Qawra, dan fuq investigazzjoni dwar nies illi jahdmu irregolarment. Jiena meta dhalt fuq il-post kellimt lil Christopher Zahra karta ta' l-identita` numru 195593M u li qieghed naghrfu bhala l-imputat

prezenti fl-Awla li dak il-hin hu kien responsabbli mill-hanut. Jien lil dan kont staqsejtu ghall-owner u qalli li l-owner huwa missieru u jien fil-fatt lil missier l-imputat kont kellimtu fuq it-telefon. Jien lil Christopher Zahra kont staqsejtu min nies kellu jahdmu hemm gew pero` dan irrispondieni Christopher Zahra illi jien kelli inkellem lil missieru. Jien fil-post innutajt li kien hemm guvni bl-isem ta' Gary Smith li dak iz-zmien kellu hmistax-il (15) sena u dan innutajtu illi kien qieghed bil-qeghda fuq mejda u dan kellu xi rcevuti u karti u kien qieghed jaghmel xi kontijiet. Dan il-guvni staqsejtu jekk kellux working permit u dan ovvjament hu kellu hmistax-il (15) sena u dan irrispondieni illi ma kellux. Jien imbaghad kellimt lil missier Christopher Zahra u dan kont kellimtu fuq it-telefon u dan kien qalli li dan Gary Smith kien qieghed ihaddmu ghal xi jumejn ghaliex dan kellu xi problemi tal-familja u hu qalli li fil-fatt kienet mietet omm dan Gary Smith ftit qabel. Minhabba l-ammont ta' spezzjonijiet li kelli naghmel jien ma stajtx nistenna biex jasal fuq il-post missier l-imputat Christopher Zahra u jien fil-fatt kont tajt struzzjonijiet lil missier l-imputat biex hu jinzel l-Ghassa tal-Qawra halli jkellem lill-Ispettur Dennis Mula. Jidhirli illi dan Gary Smith meta kont rajtu fuq il-post kien liebes qmis bajda u qalziet iswed bhal jekk m'inix sejjer zball l-impjegati l-ohra li kien hemm hemmhekk. Jien dakinhar kont responsabbli mill-iskwadra u lin-nies jien kellimthom." (Sottolinjar tal-Qorti).

Il-Qorti hawn tistaqsi li fid-dawl ta' dak sottolinjat mill-Qorti mid-deposizzjoni hawn fuq riportata ta' PS 90 Jeffrey Gerada, Raymond Zahra li jidher pacifiku mill-provi migjuba li kien is-sid tal-istabbiliment "The Bell" fid-data tal-10 ta' Awissu 2004 l' ghala ma ngiebx bhala xhud mill-Prosekuzzjoni? Skond PS 90 Jeffrey Gerada, fuq it-telefon, missier Christopher Zahra qallu li Gary Smith kien qieghed ihaddmu ghal xi jumejn ghaliex dan kellu xi problemi tal-familja u qallu li fil-fatt kienet mietet omm dan Gary Smith ftit qabel. Minn dak li qal PS 90 johrog li prattikament Raymond Zahra ammetta mieghu li hu kien qieghed ihaddem ghal xi jumejn lil Gary Smith.

Il-Qorti sejra issa taghmel referenza ghad-deposizzjoni tal-imputat Christopher Zahra li fis-Seduta tad-19 ta' Ottubru, 2005 qal: "Nghid illi f'Awissu tas-sena 2004 u fil-jiem ta' qabel il-fond jismu "The Bell" gewwa Triq it-Tamar, il-Qawra Malta kien ta' certu Raymond Zara u llum m'ghadux tieghu. Raymond Zahra jigi missieri. Nghid illi fl-10 t'Awissu 2004 peress illi missieri kien ma jiflahx jien kont qed niehu hsieb dan l-istabbiliment bl-isem "The Bell" u kelli l-kontroll tal-fond. Nghid illi dan sehh fid-9 t'Awissu 2004 u anke fl-10 t'Awissu 2004. Missieri dawk il-jiem kellu l-influwenza. Jien dan ix-xoghol li ghamilt ma ghamiltux bi hlas ghal missieri. Nixtieq nghid illi in kwantu ghal Gary Smith dan kellu l-istep father tieghu kien miet hawn Malta u kellu ommu minn Wales li kienet marret ghal xi gimghatejn Wales biex tbiegh id-dar taghha hemmhekk u nghid illi sa dak iz-zmien illi ommu kienet qeghda barra bl-intenzjoni li din tirritorna lura Malta u tghix ma binha Malta binha Gary Smith kien qed jghix id-dar taghna. Nghid illi jien fid-data ta' l-10 t'Awissu 2004 lil dan Gary Smith kont ilni nafu xi tlieta jew erba' xhur (3-4) u nghid illi ahna konna hbieb. Nghid illi fl-10 t'Awissu 2004 Gary lili hemmhekk kien qed jghini billi kien qed jaghmilli xi zewg kontijiet. Nghid illi din kienet l-ewwel okkazjoni li dan Gary kien gie jghini f'"The Bell". Nghid illi dakinhar Gary Smith kien gie hemmhekk biex jara lili u jien ma hallastux. Jien qabel ma Gary ghini dakinhar jien ma kont wghedtu la xi hlas jew xi forma ta' pagament ghal dak li hu ghamel. Dwar dak li ghamel hu kien bhala favur. Nghid illi fil-fatt fil-post dakinhar kien hemm l-istaff. Nghid illi fil-fatt il-kontijiet kien hemm diga` l-prezzijiet fuqhom u kulma kellu jaghmel Gary kien illi jghoddli t-total. Jidhirli illi Gary dak iz-zmien kien ghadu kif spicca l-iskola tieghu hawn Malta fis-sens illi kien ghadu jispicca l-ahhar sena. Jidhirli li imbaghad Gary ma kompliex l-istudji tieghu. Jien u Gary ghadna hbieb. Illu nghid illi dan Gary jahdem fl-istabbiliment "The Bell" u nghid illi dan l-istabbiliment m'ghadux ta' missieri. Ilu xi xahrejn li missieri nehha dan l-istabbiliment bhala min-negozju minn tieghu. Nghid illi ma kienx missieri illi impjega lil Gary Smith f'"The Bell". Dan gie impjegat f'"The Bell" wara li missieri nehha dan in-negozju. Jien f'"The Bell" kont impjegat bhala barman

u waiter u jien kont biss bhala staff go l-istabbiliment “The Bell”.”

Issir ukoll referenza ghad-deposizzjoni li ta Gary Smith fis-Seduta tad-19 ta’ Ottubru, 2005 fejn dan ix-xhud *inter alia*, qal:

“………. I confirm what I stated in my evidence given on the 17th January 2005, namely the following statement “I wish to state that I was there having a drink, over the work suddenly got over heavy and Christopher Zahra asked me if I could add a bill. I sat, wrote out the bill for Christopher Zahra and then the immigration police came. I did not help in any other way accused. I wasa promised no payment for adding this bill for Christopher Zahra. Accused only asked me to add up this bill for him because the work lot at that moment was quite heavy.” I confirm this statement. I did not immigration police that I was working there without any work permit. What I told the police was that what I did was simply doing a paper to Christopher Zahra by adding up the bill. I was not promised any job for doing this thing.”

In kontro-ezami l-istess xhud fl-istess Seduta tad-19 ta’ Ottubru, 2005 qal:

“I confirm that in January 2005 I applied for a work permit to work at “The Bell” establishment. My employer was going to be Raymond Zahra and Raymond Zahra is Christopher’s Zahra father. I wish to add that presently I am still working at “The Bell” which is situated at Triq it-Tamar, Qawra Malta and however I am working under a new owner.”

Issir wkoll referenza ghad-deposizzjoni ulterjuri, li ta l-imputat Christopher Zahra fis-Seduta tad-19 ta’ Ottubru, 2005 fejn qal: “Nixtieq nghid illi b’referenza ghal dak li jien tajt fid-deposizzjoni tieghi llum wara li smajt ix-xhieda ta’ Gary Smith nghid illi jista’ jkun illi fil-fatt fil-perjodu li ahna u cioe` missieri kien telaq minn dan l-establishment minn “The Bell” kien lahaq impjega lil Gary Smith f’dan l-establishment bil-working permit u imbaghad missieri kien

nehha dan l-establishment baqa' jahdem hemmhekk taht sidien godda."

Il-Qorti sejra wkoll taghmel referenza ghad-deposizzjoni tal-Ispettur Denise Mula li fis-Seduta tas-17 ta' Jannar, 2005 qalet: "Nghid illi fl-10 ta' Awissu, 2004, u dana ghall-habta tad-disgha u nofs ta' fil-ghaxija (9.30p.m.), kienet saret spezzjoni gewwa stabbiliment bl-isem *The Bell* gewwa Triq it-Tamal, Bugibba minn PS 90. Nghid illi effettivament dana l-fond kien *The Bell*, Triq it-Tamal, Bugibba. Nghid marru fuq l-ispezzjoni PS 90, PC 1327 kif ukoll PC 1456 u nghid li dana meta marru f'dana l-istabbiliment sabu lil certu Gary Smith li kien qieghed persuna qieghda tahdem hemm gew u dana kien ikkonferma li kien qieghed jahdem bla permess u kien ilu hekk ghal xi jumejn."

Mid-deposizzjoni tal-Ispettur Denise Mula hawn fuq riportata ma jirrizultax jekk l-Ispettur Mula kellmitx jew le lil Raymond Zahra li kif diga` gie osservat mill-Qorti aktar qabel f'din is-Sentenza jidher pacifiku mill-provi migbura li kien is-sid tal-istabbiliment "The Bell" fid-data tal-10 ta' Awissu 2004.

Il-Qorti wara li ezaminat il-provi migjuba, hi tal-fehma li fil-kaz odjern ma jirrizultax sodisfacentement ippruvat li l-imputat Christopher Zahra kienet il-persuna idonea li kontra taghha kellhom jingiebu l-akkuzi migjuba f'din il-kawza u ghaldaqstant il-Qorti tillibera lill-imputat Christopher Zahra mill-akkuzi kollha migjuba kontra tieghu.

< Sentenza Finali >

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