



MALTA

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

**MAGISTRAT DR.
MIRIAM HAYMAN**

Seduta tat-2 ta' Gunju, 2006

Numru. 893/2005

**The Police
(Sp. Anthony Portelli)**

v

**Mohamed Farah Sulajman, son of
Farah and Daibi, born in Mogadischu Somalia
in 1972, residing at Hal Far Open Center,
Hal Far, B'Bugia**

The Court,

Has seen the charge against Mohamed Farah Sulajman charged with having at Marsa on the 1st October, 2005 at about 4.00 a.m. with the intent to cause grievous bodily harm on the person of Olad Ali Abdulhafur, manifested

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such intent by overt acts which were followed by a commencement of the execution of the crime and which crime was not completed in consequence of some incidental cause independent of his will.

On the same date, time and circumstances by means of a pointed and cutting instrument caused slight bodily harm to the person of Olad Ali Abdulhafur as certified by Dr Charles Swain MD of St Luke's Hospital.

Has seen the acts of the case.

Considered

From the evidence produced at least of the other Somaliis present in the Tiger Bar during the incident, it transpired that the accused attacked and injured Abdulhafur by hitting him with the neck of a glass bottle on the head. It also transpires that after such incident Abdulhafur also threw a stone at accused and injured him on the head.

Accused's version in his statement is that he was attacked by Abdulhafur with a stone and for this reason he retaliated by hitting Abdulhafur with it. (a fol 59).

In his statement he says that he was attacked because he refused to buy Abdulhafur a drink.

Viva voce accused stated that the incident initiated by his refusal to give the Somaliis' money to buy drinks. He said that they in fact wanted for him next to the Marsa Refugee Centre gate and once he approached this location he was attacked by them. It was here that he picked a bottle from the ground and without any intention to hurt Abdulhafur threw the bottle which hit the latter. He in fact corrected his previous version given in his statement where he said that he had picked a bottle broke it on the floor and holding its neck and struck Abdulhafur. He imputed this change of version to lack of understanding by the initial Somali translation.

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He insisted giving evidence viva voce that he had no intention of hitting specifically Abdulhafur but simply to throw the bottle amidst the other Somaliis.

Considers

The Attorney General deemed that the accused can be found guilty under the following sections of the law:

41(1)(a), 214, 215, 216, 217, 218, 31, 20, 23 and 533 of the Criminal Code to which the accused gave his consent to summary proceedings as minuted on the same Attorney General's note (a fol 121).

Now though the charges brought against Sulajman is that of attempted grievous bodily harm it transpired from evidence tendered by Dr Stephen Muscat that Abdulhafur only suffered injuries of a slight nature.

Thus relying on this evidence Defence contested the charges brought against Sulajman being attempted grievous bodily harm. Sulajman himself viva voce also tendered evidence that he had no intention to hurt Abdulhafur but only to throw the bottle at the aggressive Somaliis.

First and foremost it must be premised that in his statement as premised Sulajman gave a tempo vergine a different version.

Secondly the Court can only here agree with the Prosecuting Officer in the fact that anyone attacking another person with a broken bottle can and should expect to inflict serious injury and is so expected to desire. It is hardly credible if one considers the damage that can be inflicted with this glass implement (even death) to expect to be believed that one intended only injuries of a slight nature. In fact it is the opinion of the Court that Sulajman intended more serious injuries otherwise he would have resorted to a different implement.

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Considering the above premised, considering also that Sulajman might have suffered some abuse, (since the Court believes that Abdulhafur threw the stone at accused after being hit himself) considering also that Abdulhafur forgave accused, seen sections 41, 214, 215, 216, 217, 218, 31, 20, 23 of Chapter 9.

Considers that to date accused is still nder preventive arrest, seen sections 28A of Chapter 9 and condemns the accused to a term of 6 months imprisonment suspended for 1 year.

< Sentenza Finali >

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