



MALTA

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

**MAGISTRAT DR.
MIRIAM HAYMAN**

Seduta tal-15 ta' Gunju, 2006

Numru. 861/2005

**The Police
(Sp. Walter Spiteri)**

v

**Ahmed Satar 26 years, son of
Satar and Hawah Ibrahim, born in Sudan
on the 1st April, 1979 and temporary residing
at Lyster Barracks, Armed Forces of Malta,
Hal Far**

The Court,

Has seen the charge against the above mentioned Ahmed Satar charged with having on the 27th September, 2005, at the detention centre of the Lyster Barracks, Hal Far, threatened or caused an injury on the person of gunner

05114 Owen Formosa, a person entrusted with a public duty according to law, whilst he was in the act of discharging such duties, or because of having discharged such duties, or with the intent to intimidate or to unduly influence him in the discharge of such duties (Section 95(1) Chapter 9 of the Laws of Malta);

Charged also with having on the same date, time and place, with having assaulted or resisted with violence or active force, which does not amount to public violence, Gunner 01114 Owen Formosa and Gunner 86035 Jonathan Camilleri, persons, lawfully charged with a public duty, whilst they were executing their duties according to law (Section 96, Chap. 9 of the Laws of Malta).

Charged also with having on the same date, time and place, with intent to commit grievous bodily harm on the person of gunner no. 05114 Owen Formosa, manifested such intent with overt acts which followed the commencement of such crime, which crime was not fulfilled due to something accidental and independent of his will.

Considers

That the Court is faced with two versions given by the accused as to the actual incident that happened with Gunner Formosa and this with regards of the injuries sustained by the AFM official.

In fact whereas in his statement he is totally apologetic for his assault on Gunner Formosa (a fol 7) in his evidence tendered viva voce he gives the version that he was actually pushed and held to and on the floor by Formosa, the latter assaulted by another AFM official. Asked in cross examination as to an explanation of the injuries suffered by Formosa, he explained by saying:

“Yes I told you I did not know how it came about. When he tried to push me from the steps I tried to save myself so I tried pushing so I only touch...” “I only push him when I felt I was falling from the stairs.”

Gunner Formosa explained how he allowed the accused to pass through a gate. On by passing him in the staircase, the accused attacked him from behind and was choking him. This is also corroborated by another AFM official Jonathan Camilleri who stated that he saw accused trying to choke Owen Formosa. In fact Camilleri proceeded to assist Formosa and was in his words also pushed by accused.

Be it premised that both the AFM officials and accused agree that prior to the incident there was a stand off by the refugees about their refusal to consume the milk distributed. This commotion brought about shouting from the refugees and certainly a certain amount of tension was present in order for the officials to restore order. It is in this light that the incident in question has to be viewed. It also transpires that accused was acting as a sort of intermediary or emissary to get the toilets functioning. It is at this stage when accused was attempting to the storekeeper therefore heading through the gate downstairs that the incident in examination arose.

Considers

Photographs were exhibited to show the injuries sustained by Formosa.

Clearly these neck injuries contradict the second version given by accused that he only scratched Formosa from the chest to ward him off. The injuries are without any doubt strangulation injuries. Therefore the Court is more propense to believe injured's version.

Seen also the articles of the law remitted by the Attorney General under which an offence or or offences might result, that is:

95(1), 96, 41, 214, 215, 216, 217, 218, 31, 20, 23, 533 of the Criminal Code.

Kopja Informali ta' Sentenza

Has seen also accused's consent to summary proceedings.

Finds him guilty of the offences contemplated in Section 95 and 96 and of offences contemplated under section 212 and 41 of Chapter 9.

In view of the attempted bodily harm resulting however in an injury of slight nature after having seen section 214, 215, 216, 217, 218, 221 of Chapter 9. Seen also section 31, 20, 23, 17 of Chapter 9. Seen also his conviction sheet which is completely pristine thus condemns him to six months imprisonment and deducts therefrom what accused has done under preventive arrest.

< Sentenza Finali >

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