

QORTI KRIMINALI

IMHALLEF

ONOR. VINCENT DEGAETANO LL.D.

Seduta LVI,
It-Tlieta, 30 ta' Gunju, 1998

Att ta' Akkuza
Nru. 6/97.

Ir-Repubblika ta' Malta

kontra

Louis Galea

Meta ssejjet il-kawza deher l-akkuzat Louis Galea assistit minn Dr. Angelo Farrugia.

Deher ukoll Dr. Anthony Barbara ghall-Prosekuzzjoni.

Peress illi l-ewwel kap tal-att ta' akkuza gie modifikat kif mitlub mill-Avukat Generali bir-rikors tieghu tad-19 ta' Gunju, 1998, il-Qorti tordna li l-att ta' akkuza jerga jinqara mill-gdid.

Dr. Angelo Farrugia ghall-akkuzat jezenta lill-Qorti mill-qari tal-att ta' akkuza kif modifikat.

Il-Qorti tordna li l-akkuzat jigi mistoqsi xi wiegeb ghall-akkuzi migjuba kontra tieghu fl-att ta' akkuza.

L-akkuzat Louis Galea wiegeb li huwa hati skond l-att ta' akkuza.

Il-Qorti wissiet bl-aktar mod solenni lill-Louis Galea dwar il-konsegwenzi tal-ammissjoni tieghu u taghtu 5 minuti zmien biex jerga jahsibha u jekk irid jerga lura minnha.

Kawza posposta ghal 5 minuti.

Meta regghet issejjet il-kawza deher l-akkuzat Louis Galea assistit minn Dr. Angelo Farrugia.

Deher ukoll Dr. A. Barbara ghall-Prosekuzzjoni.

Il-Qorti tordna li l-akkuzat jerga' jigi mistoqsi x'wiegeb ghall-akkuzi migjuba kontra tieghu fl-att ta' akkuza.

L-akkuzat ippersista fl-ammissjoni tieghu.

Il-Qorti tordna li din l-ammissjoni tigi registrata.

Dr. Angelo Farrugia beda t-trattazzjoni tieghu rigward il-piena;

Seduta posposta.

Meta komplet is-seduta, deher il-hati Louis Galea assistit minn Dr. Angelo Farrugia.

Deher ukoll Dr. Anthony Barbara ghall-Prosekuzzjoni.

Dr. Angelo Farrugia kompla bit-trattazzjoni tieghu rigward il-piena;

Xehdet bil-gurament: Katty Spiteri, omma il-hati.

Dr. Anthony Barbara irrisponda.

Kawz differita ghas-sentenza ghal nhar il-Hamis, 2 ta' Lulju, 1998 fil-11.00a.m.

Joseph Sacco
D.Registratur

CRIMINAL COURT

JUDGE

THE HON. MR. JUSTICE VINCENT DEGAETANO LL.D.

Sitting LVI,
Tuesday, 30th June, 1998.

Bill of Indictment No. 24/97.

Republic of Malta

vs

Petar Tasic

When the case was called there appeared accused Petar Tasic assisted by Dr. Joseph Brincat and Dr. Brian Berry.

There also appeared Dr. Mark Said for the Prosecution.

The Court asked defense counsel if there was any particular reason for not conducting these proceedings in the same language in which the proceedings before the first Court were conducted, that is in the English Language with the additional benefit of the appointment of an interpreter to translate were necessary from English into the Serbian language and vice-versa.

Counsel for the accused stated that the accused had no objection to the proceedings be conducted in the English language.

The Court appoint Mrs. Violet Sammut as interpreter from English into Serbian and vice-versa for the benefit of the accused.

Mrs. Violet Sammut sworn as interpreter.

Dr. Brincat prays for a short postponement of the case.

Case postponed for 10 minutes.

When the case was called again, there appeared accused assisted by Dr. Joseph Brincat and Dr. Brian Berry.

There also appeared Dr. Mark Said for the Prosecution.

The accused was again assisted by the interpreter.

The Court orders that the accused be asked what he pleads to the charges brought against him in the Bill of Indictment.

Before the accused was asked, counsel for the Prosecution submitted a note indicating that the Prosecution is reducing the charge brought forward in the 3rd Count to one of grievous bodily harm with arms proper in terms of section 215, 216, 217 and 218 of the Criminal Code.

Dr. Joseph Brincat for the accused does not object to the reduction of the charge in the 3rd Count.

The Court orders that the Third Count be amended accordingly.

The Court orders that the accused be asked what he pleads to the charges brought against him in the Bill of Indictment as amended today.

Accused pleaded guilty.

The Court solemnly explained to the accused the consequences of his plea of guilty and gave him 5 minutes to consider such plea.

Case postponed for 5 minutes.

When the case was again called there appeared accused, assisted by his defense counsel and the interpreter.

Also present was Dr. Mark Said for the Prosecution.

The Court ordered that the accused be again asked what he pleads to the charges brought against him in the Bill of Indictment as amended today.

Accused Peter Tasic persisted in his plea of guilty.

The Court orders that such plea be registered.

Dr. Joseph Brincat made submissions regarding the punishment.

Dr. Mark Said replied to the submissions, addressed by defense counsel.

Rita Aquilina gave evidence on oath.

Case put off for judgment to Thursday, 2nd July, 1998 at 11.00am

Joseph Sacco
D.Registrar

QORTI KRIMINALI

IMHALLEF

ONOR. VINCENT DEGAETANO LL.D.

Seduta LVI,
It-Tlieta, 30 ta' Gunju, 1998

Att ta' Akkuza
Nru. 11ú97.

Ir-Repubblika ta' Malta

kontra

Victor Galea
Joseph Galea

Meta ssejjet il-kawza dehru l-akkuzati Victor Galea u Joseph Galea. Deher ukoll Dr. Michael Sciriha. L-Avukat Dr. Guido de Marco u Dr. Chris Cilia msejja diversi drabi baqghu ma deherux;

Deher ukoll Dr. Mark Said ghall-Prosekuzzjoni.

Aktar tard deher l-avukat Dr. Guido DeMarco.

Inghata provvediment

Dr. Guido Demarco ghall-akkuzat Victor Galea qara u ppresenta nota ta appell;

Invista tan-nota pprezentata llum, il-Qorti tiddiferixxi l-kawza sine die riappuntabli wara d-decizjoni finali tal-Qorti ta' l-appell Kriminali jew wara li jiskadi t-terminu ta' appell u appell ma jkunx gie intavolat.

Il-Qorti tordna li l-akkuzati jergghu jitqieghdu fl-istess popsizzjoni li kienu fiha qabel iddahhlu fl-izbarra llum.

Joseph Sacco
D.Registatur

Qorti Kriminali

Imhallef

Onor. Vincent De Gaetano LL.D.

Att ta' Akkuza 11/97

Ir-Repubblika ta' Malta
v.

Victor Galea u Joseph Galea

It-Tlieta, 30 ta' Gunju, 1998.

Il-Qorti:

Regghet rat l-Att ta' Akkuza 11/97;

Rat is-sentenza preliminari taghha tal-4 ta' Mejju, 1998 permezz ta' liema sentenza din il-Qorti kienet, fost affarijiet ohra, iddikjarat null l-ewwel kap ta' l-imsemmi Att ta' Akkuza u ordnat li Victor Galea jerga' jigi mqieghed, riferibbilment ghal dan il-kap biss, fl-istess stat li kien immedjatament qabel ma gie ppresentat l-Att ta' Akkuza b'dan il-kap;

Rat li minn dik is-sentenza ma kienx hemm appell;

Rat ir-rikors ta' l-Avukat Generali tal-5 ta' Mejju, 1998 -- ma liema rikors hemm anness l-ewwel kap kif ripropost mill-istess Avukat Generali -- li permezz tieghu talab li din il-Qorti "tawtorizza u tordna li l-ewwel kap tal-att ta' akkuza odjern jigi ppresentat mill-gdid bil-mod kif intavolat" fid-dokument anness ma' l-istess rikors u "salv kwalunkwe dritt spettanti lill-akkuzat Victor Galea kif dispost fl-artikolu 438 tal-Kodici Kriminali";

Rat in-nota tal-akkuzat Victor Galea, minnu ppresentata fit-28 ta' Mejju, 1998, li permezz taghha huwa oppona ghal din it-talba;

Semghet lid-difensuri tal-partijiet fl-udjenza tal-25 ta' Gunju, 1998;

Ikkunsidrat:

Dan hu provvediment limitat ghat-talba ta' l-Avukat Generali tal-5 ta' Mejju, 1998, kif aktar 'l fuq imfissra. L-akkuzat Victor Galea qieghed joggezzjoni li din il-Qorti "tawtorizza u tordna li l-ewwel Kap tal-Akkuza odjern jigi ppresentat mill-gdid". Ir-ragunijiet migjuba minn dan l-akkuzat huma tlieta, u ser jigu kkunsidrati *seriatim*.

L-ewwel raguni hi li "t-termini prefiss fl-artikoli citati mill-Avukat Generali favur tieghu skadew bil-konsegwenzi relattivi". L-akkuzat hawnhekk qieghed jirreferi ghall-Artikoli 432 u 602 tal-Kodici Kriminali. Din l-oggezzjoni hi wahda fieragh. Mill-atti ta' l-istrutturja jirrisulta li dawn kienu gew rinvjati mill-Qorti tal-Magistrati (Malta) lill-Avukat

Generali fil-25 ta' April, 1997. L-Att ta' Akkuza 11/97 (li l-ewwel kap tieghu gie dikjarat null) gie ppresentat fis-7 ta' Mejju, 1997, jigifieri ferm qabel l-iskadenza tat-terminu ta' xahar li huwa kellu biex jippresenta dak l-Att. Bis-sentenza taghha tal-4 ta' Mejju, 1998 din il-Qorti ordnat li Victor Galea "jerga' jigi mqieghed, riferibbilment [ghall-ewwel] kap biss, fl-istess stat li kien immedjatament qabel ma gie ppresentat l-att ta' akkuza" b'dak il-kap. Ir-rikors ta' l-Avukat Generali, bl-ewwel kap, kif ripropost, anness mieghu, gie ppresentat l-ghada tas-sentenza, jigifieri fil-5 ta' Mejju, 1998. Minn dan jirrisulta car li l-Avukat Generali kien ghadu entro t-terminu sew ta' xahar lilu koncess mill-ligi; u dan appartli l-fatt li anke kieku kien skada dana t-terminu ta' xahar, l-effett tal-Artikolu 602 hu li xorta wahda dak il-kap seta' jigi ppresentat galadarba sad-data tal-presentata ma kienx sar rikors mill-akkuzat sabiex huwa jigi lliberat ghall-finijiet ta' eventwali l-ewwel kap.

It-tieni oggezzjoni tal-akkuzat Victor Galea hi li bl-ewwel kap kif ripropost l-Avukat Generali qieghed ipoggieh f'posizzjoni aghar milli kien taht l-Att ta' Akkuza kif originarjament presentat. Din l-oggezzjoni hi wkoll infondata. L-ewwel kap li gie dikjarat null -- fuq talba ta' l-istess Victor Galea -- kien jakkuzah b'tentattiv ta' omicidju volontarju ta' persuna jew persuni (oltre li wkoll hati ta' feriti hfief), u l-piena mitluba kienet dik tat-tentattiv ta' omicidju volontarju, jigifieri minn sitt snin sa ghoxrin sena (kjarament l-Avukat Generali kien hawnhekk qieghed jitlob l-applikazzjoni tal-ligi kif kienet qabel il-bidu fis-sehh ta' l-Att XVI ta' l-1996 li emenda wkoll l-Artikolu 31(1)(b) tal-Kodici Kriminali). Fil-kap kif ripropost, l-Avukat Generali qieghed jerga' jakkuza b'tentattiv ta' omicidju volontarju u jitlob l-istess piena. Ghalhekk b'ebda mod ma hu qieghed jaggrava lill-akkuzat Victor Galea.

Fit-tielet lok, l-imsemmi Victor Galea jghid li "l-Att ta' Akkuza huwa uniku u ma jistax jigi frammentat f'kapi li jiddataw ruhom b'mod u kapi jiddataw ruhom b'mod iehor". Dan l-ilment kien ikollu xi validita' li kieku l-Avukat Generali ghazel minn rajh li jippresenta certi kapi f'data u certi kapi f'data ohra. Li gara, pero', kien li fuq eccezzjoni sollevata mill-istess Victor Galea, l-ewwel kap biss gie dikjarat null u per konsegwenza s-subartikolu (6) tal-Artikolu 449 tal-Kodici Kriminali kellu jigi applikat biss fir-rigward ta' dak il-kap. Fil-prassi kostanti ta' din il-Qorti, f'kaz simili huwa biss dak li kap li jkun gie dikjarat null li jerga' jigi ripropost u mhux l-Att ta' Akkuza kollu (ara, fost ohrajn, R. v. Giuseppe Mizzi, 27 ta' April, 1943, Kollezz. Deciz. parte IV, pp. 348-350).

Fl-ahhar nett il-Qorti tosserva li l-ewwel kap seta' jigi ppresentat mill-Avukat Generali b'semplici nota, u ma kienx hemm ghalfejn il-forma solenni ta' rikors.

Ghall-motivi premissi, filwaqt li tirrespingi l-oggezzjonijiet kollha tal-akkuzat Victor Galea, tilqa' t-talba ta' l-Avukat Generali kif kontenuta fir-rikors tieghu tal-5 ta' Mejju, 1998.

Dep/Registratur

