



MALTA

COURT OF CRIMINAL APPEAL

**HON. MR. JUSTICE
JOSEPH GALEA DEBONO**

Sitting of the 11 th January, 2007

Criminal Appeal Number. 357/2006

The Police
(Insp. P. Micallef Grimaud)

vs.

Iwueke
Damian Chekweumeka

The Court,

Having seen the charge brought against the appellant Iwueke Damian Chukwuemeka before the Court of Magistrates (Malta) as a Court of Criminal Judicature for having, on the 20th May, 2005, at about 2.30 p.m in Valletta :

1. threatened verbally Prof. Lino Briguglio;
2. with the object of destroying or damaging the reputation of Prof. Lino Briguglio, he offended him by words, gestures or in any other manner.

Having seen the judgement delivered by the Court of Magistrates (Malta) as a Court of Criminal Judicature on the 7th November, 2006, whereby, after the Court saw Sections 339(1)(e) and 383 of Chapter 9 of the Laws of Malta, found the accused guilty of the first charge and fined him an *ammenda* in the sum of twenty five Maltese Liri (LM25), and found the accused not guilty of the second charge and acquitted him therefrom.

Furthermore, the Court also bound the accused, in order to provide for the safety of Prof. Lino Briguglio and his family, to enter into his own recognisance in a sum of one hundred Maltese Liri (LM100) and for a term of twelve (12) months.

Having seen the application of appeal filed by appellant on the 16th November, 2006, wherein he requested this Court to vary the appealed judgement in the sense that it revokes it in as much as with respect to the first charge it found accused guilty of breaching Section 339(1)(e) of the Criminal Code, condemning him to an *ammenda* of LM25 and binding him to enter into his own recognisance in a sum of one hundred Maltese Liri for a term of twelve months, and instead to acquit him of such charge; but to confirm it in as much as it did not find him guilty of breaching Sections 249(2) and 252(1) under the second charge.

Having seen the records of the case;

Having seen that appellant's grounds for appealing are the following, namely that :- 1. from the evidence it should have resulted that appellant never intended to utter words that could be taken as threats. 2. that the first Court rejected appellant's plea of prescription under section 688 (f) of the Criminal Code, when the charge he was found guilty of which is in breach of section 339(1)(e) of the Criminal Code, is barred by prescription by the lapse of three months applicable to offences which are contraventions.

Having seen appellant's updated criminal record, filed by the Prosecution, as ordered by this Court;

Having heard oral submissions only with regard to the plea of prescription at this stage;

Having considered that it is legally in order and expedient to dispose of the second ground of appeal i.e. time bar or prescription, before entering into the merits of the case;

Having considered that appellant was cleared of the second charge, namely that of verbally slandering Professor Pasquale sive Lino Briguglio and was only found guilty of the first charge of having verbally threatened said Professor Briguglio, in terms of section 339 (1)(e) of the Criminal Code, which is a contravention and therefore time barred by the lapse of three months from the date of the commission of the alleged offence.

Having considered that the charge was filed by the police only on the 20th. February, 2006, (fol. 1) following the lodging of a formal written complaint by Professor Briguglio dated 7th. February, 2006, (fol.12), when the offence in question was alleged to have taken place on the 20th. May, 2005, i.e. a good nine months before. The charge was obviously served upon the appellant even much later than that.

Having considered that therefore the first charge proffered against the accused which is the only charge of which appellant was found guilty by the Magistrates' Court, was obviously barred by the lapse of prescription according to section 688 (f) of the Criminal Code;

Now therefore, for the above reasons, this Court upholds the appeal and varies the judgement appealed from by revoking it in so far as it found appellant guilty of the first charge of verbally threatening Professor Lino Briguglio and fined him the sum of twenty five Maltese Liri (LM25) *ammenda* and in so far as it bound the accused in terms of section 383 of the Criminal Code, in order to provide for the safety of Professor Lino Briguglio and his family, to enter into his own recognisance in a sum of one hundred Maltese Liri (LM100) and for a term of twelve (12) months

Informal Copy of Judgement

from the day of the said judgment, with costs against accused and, instead, declares said charge barred by prescription and acquits him of said first charge and discharges him from the payment of said fine *ammenda* and the obligation under section 383; and confirms the remainder of said judgement acquitting appellant of the second charge proffered against him, thus acquitting him from all charges, punishment and obligation under section 383.

< Final Judgement >

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