MALTA

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

MAGISTRAT DR.
MIRIAM HAYMAN

Seduta ta' l-1 ta' Frar, 2008

Numru. 923/2004

Il-Pulizija
(Sp. Victor Aquilina)

v

Andrew Mangion imwieled Pieta'
Nhar is-17 ta' Frar, 1982, iben Anton
u Victoria nee Randon u li joqghod
Blokk A, Flat 6, Perry Court, Telghat Birkirkara,
San Giljan detentur tal-karta tal-identita' bin-numru
666682 (M)

Il-Qorti,

Rat l-akkuza kontra l-hawn fuq imsemmi Andrew Mangion li gie akkuzat talli fis-16/07/04 ghall-habta tal-11.00 p.m. waqt li kien fir-residenza 7 Oaks fi Triq il-Linja, Attard

minghajr il-hsieb li joqtol jew li jqieghed il-hajja ta' haddiehor f'periklu car, ikkaguna ferita gravi fuq il-persuna ta' Andrea Farrugia ID 5777783 (M) hekk kif iccertifika Dr Herman K. Borg Xuereb MD ta' l-Isptar San Luqa liema ferita tista' tikkaguna debbulizza permanenti fis-sahha jew fil-funzjoni ta' xi parti tal-gisem, jew tista' ggib difett f'parti ta' l-ghamla tal-gisem jew tista' ggib mankament jew sfregju fil-wicc.

Il-Qorti hija gentilemnt mitluba f'kaz ta' htija minbarra l-piena applikabbli skond il-ligi tapplika l-artiklu 383 tal-Kapitlu 9 tal-Ligijiet ta' Malta sabiex tipprovdi ghas-sigurta' ta' Andrea Farrugia ID 577783 (M).

Rat il-kunsens tal-Avukat Generali ghal proceduri sommarji.

Rat li l-akkuzat ma kellu ebda oggezzjoni ghal tali proceduri.

Rat ukoll illi hu wiegeb li ma kienx hati ta' l-akkuzi kif dedotti kontra tieghu.

Rat l-atti kollha tal-kawza.

Ikkonsidrat

Illi mill-provi jirrizulta car, anke ghax ammess mill-istess akkuzat, illi hu kellu argument verbali mal-parti leza fuq tisjir. Jghid li l-parti leza bdiet waqt dan l-argument tghajjat u tersaq lejh u beda jghajjat f'wiccu. Jghid ukoll illi lil Andrea Farrugia (parti leza) beda jersaq lejh tant li gibduh in-nies. Xehed li Farrugia beda jirridokalah quddiem shabu u gie wicc imb wicc mieghu. Kien hawn li tah il-"head butt". Xehed ukoll illi hekk ried jaghmillu, cioe li jaghtih daqqa b'rasu.

Min-naha tieghu Andrea Farrugia xehed li fil-fatt l-akkuzat indahal f'konverzazzjoni li hu kellu ma' certu Ben Frendo, vera din il-konverzazzjoni kienet fuq l-ikel. Jghid li Andrew Mangion interrompihom u beda jinsultah. Jghid li fil-fatt kien hawn li l-akkuzat "head butted him".

Aktar tard fix-xhieda tieghu spjega li hu la kien mess lill-akkuzat la insultah u qallu "... just leave me alone" (a fol 18). Xehed ukoll hekk "I stood my ground. Because at the time I am cooking, so I am turning, when he came to speak to me I turned. He was already threatening me. He was close to me, he was face to face and he head butted me". (a fol 19).

Ix-xhud Michael Caruana ddepona fis-sens illi Andrea, l-parte leza kien qieghed isajjar u nqalgha argument bejnu u bejn l-akkuzat, anzi kien l-akkuzat li interferixxa ghal mod kif kien qed isajjar Andrea. Jghid dan ix-xhud li l-akkuzat beda jaqbad mal-parti leza, juza l-kelma insisting" (fol 35), jiddeskrivi dan l-incident billi jzid dan:

"Imbaghad jibda jghidlu iblah hazin hekk, tkunx iblah mhux suppost taghmel hekk u Andrea beda jinjorah. Imbaghad wara ftit Andrew beda, tipo they came face to face speci u Andrea beda jghidlu taghmilx hekk, iblah, hazin u beda jkomplu jghajru Andrew lil Andrea" fol 35.

Ikompli li l-akkuzat anke kellem hazin lil Andrea u min-naha tieghu Andrea wiegbu biex ma joqghodx jaghjjru, ma joqghodx hdejh.

Jghid dan ix-xhud li wara ftit Andrew l-akkuzat qabzitlu, gie wicc imb wicc u qal lill-parti leza, "tghidlix x'naghmel and he gave him a head butt..." (fol 36).

Etienne Borg, ukoll mistieden dan il-BBQ fejn inqala' dan l-incident, ukoll habib ta' l-akkuzat u l-parti leza, xehed li Andrea kien fil-fatt qed isajjar u Andrew beda jghajjru dwar dak li kien qed jinghad bejn Andrea u certu Ben Frendo. Fil-fatt l-akkuzat kien estraneju ghal konversazzjoni bejn Andrea Farrugia u Ben Frendo. Zied dan ix-xhud li bejn Andrew l-akkuzat u Andrea nqala' argument u l-akkuzat beda jghajjar lil Andrea "idiot" (fol 51). Jghid "Once they were arguing u hekk, Andy (parte leza) just turned round and Andrew Mangion he got furious and as soon as Andy turned his head again he got hit on the head (ibid). Kien l-akkuzat li fera lil Andrea.

Ben Frendo ukoll xehed li hu kien qed isajjar mal-parti leza u li kellu diskussjoni mieghu fuq it-tisjir. Jiddeskrivi l-incident li nqalgha bejn Andrew Mangion u Andrea b'dan il-mod:

"There was a point where Andrew kind of rather softly pushed Andrea a bit back ... Andrea's hand kind of opened up and I just got pushed and Andrea remained there and kind of took a step forward, like I think to try and settle things, and calm things down. He was not really sure why he was pushed. And at this point there was the head butt from Andrew Mangion hitting Andrea on the nose." (fol 61).

Il-griehi sofferti minn Andrea Farrugia huma klassifikati bhala gravi in kwantu sofra frattura f'ghadma ta' mniehru (vide dok VA1 fol 10 u x-xhieda ta' Dr Herman Borg Xuereb fol 73).

Ikkonsidrat

Illi mix-xhieda prodotta jirrizulta ben car illi t-tezi ta' provokozzajoni mressqa mid-Difiza certament ma treggix. Fil-fatt ma tistax tifhem din il-Qorti fejn kien provokat l-istess akkuzat meta kien hu li ndahal f'konverzazzjoni bejn Farrugia u Frendo u fuq kollox wasal ghal xejn kif ben iddeskrivew ix-xhieda fera lil Farrugia.

Illi ghaldaqstant qed issib lil Andrew Mangion hati ta' l-akkuzi kif dedotti kontra tieghu u dan wara li rat l-artikoli 214, 215 u 216 tal-Kapitlu 9. Rat ukoll il-fedina penali tieghu, ikkonsidrat li Andrew Mangion gia kien ikkundannat ghal serq u mqieghed taht sentenza sospiza, tikkundannah ghal piena karcerarja ta' sena.

< Sentenza Finali >

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