

Kopja Informali ta' Sentenza



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

**MAGISTRAT
ANTONIO GIOVANNI VELLA**

Seduta tal-31 ta' Lulju, 2008

Numru. 500/2008

**THE POLICE
INSPECTOR KEVIN J. FARRUGIA**

VS

EDMUND ROSALES

The Court;

After having seen the charges brought against;

Edmund Rosales 57 years, son of Jeremias and Bien Venida neww' Mac Lang, born at Philippines on the 27th February 1951, and residing at Puerto Princesa, F. Geneste Str, B'Kara, and holder of ID Card 326396(M);

Pagna 1 minn 4

Qrati tal-Gustizzja

And charge him with having on the 11th of June 2008 at about 14.15 hours in Birkirkara and in the Maltese Islands

1) Within his course of conduct causes another to fear that violence will be used against his wife Theresa Rosales or her property or against the person or property of any of his ascendants, descendants, brothers or sisters or any person mentioned in article 222(1), knowing or ought to know that his course of conduct will cause the other so to fear on each of those occasions.

2) Where the threat, be it even verbal, contains an order, or imposes a condition, shall threaten the commission of any crime.

And charge him with having on the 8th June 2008 in Birkirkara and in the Maltese Islands:

3) With having caused injuries of slight nature to his wife Theresa Rosales as certified by Dr. A. Bonello M.D. (Reg No. 2883) of Floriana Health Centre.

4) And with having willfully disturbed the public good order or the public peace.

After having seen that the charges fall within the ordinary competence of this Court as a Court of Criminal Judicature, and can therefore be treated summarily;

After having heard all the witnesses and evidence produced:

After having seen all the documents exhibited;

After having heard the submissions raised by the parties to these proceedings;

Considers:

The case brought before the Court concerns a highly animated marital separation between the accused, Edmund Rosales, and his wife, the alleged victim in these proceedings. There are essentially two charges against the accused in this case. It is being claimed that Mr Rosales, on two separate occasions, first beat up his wife and caused her injuries of a slight nature, and subsequently three days later behaved in such a manner that he caused his wife to fear that she would be the victim of violence. A report was lodged with the Police and the charges were issued accordingly.

From the evidence submitted the Court is of the opinion that Mr Rosales did not commit such crimes. The evidence included a medical certificate dated 8 June, showing various bruises on the person of Mrs Rosales, and a video film of the same incident taken by the Rosales's young daughter. Both the wife and the accused testified, and the Court heard one of the children, Miguel, the eldest son. The Court did not hear the daughter, in view of her tender age, for fear of the trauma that submitting her to testify in Court could have brought about.

In the first instance, the Court points out that there is no evidence that the accused actually hit his wife on the 8 June. The Police reports as filed by both parties on that day relate to other incidents and have nothing to do with the charges being considered in this case. Moreover, the incident of the 11 June simply does not fall within the charge as issued here. Whatever happened on the 11 June in the matrimonial home is not tantamount to instilling fear that violence may be used, but quite the contrary. The video clip exhibited by the wife was said to apply to the first incident, ie. the one of the 8 June, but as the accused rightly pointed out in his testimony before the Court, that piece of evidence was filmed on the 11 June and relates to the second charge. The amount of natural sunlight caught on film is more akin to the kind of sunlight present at midday than in the evening. Furthermore, the evidence submitted by the defense on this matter was more credible than that submitted by the wife.

In the final analysis, the Court suspects that it was Mrs Rosales who tried to provoke her husband into committing a crime during that period in June. Otherwise it would be hard to explain why she is heard on the same film calling out to her daughter to make sure the latter films the incident well. It is indeed sad to see the children of a separating couple being dragged into the affair and made to participate in this manner.

For these reasons the Court,

After having seen Articles 221, 338(dd), 251B, and 249(1) & (2) of Chapter 9 of the Laws of Malta;

This Court does not find the said accused guilty as charged, and consequently discharges him from all the charges brought against him.

The Court explained in clear words the terms of the judgement to the accused.

DR ANTHONY J VELLA BA, LL.D, MA
MAGISTRATE

< Sentenza Finali >

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