



**COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE**

**MAGISTRATE DR.
ANTONIO MICALLEF TRIGONA**

Sitting of the 20th July, 2010

Number 780/2007

The Police
(Inspector Frans Micallef)

vs

Terry Alan Gosden

The Court:

Having seen the charges brought against the accused holder of I.D. card number 37202L, with having:

- at Marsa on the 8th September 2006 at about 11.00am caused injuries of a grievous nature on the person of Osman Abdulkadir Abdull, of permanent debility of the health or any permanent functional debility of any organ of the body, or any permanent defect in any part of the physical structure of the body.

Informal Copy of Judgement

Having seen the articles of law issued by the Attorney General on the basis of which the case was transmitted to this Court to decide on the guilt or otherwise of the accused;

Having heard the accused state that he had no objection that the case be heard summarily;

Having heard the evidence including that of the accused under oath;

Having seen all the records and documents of the proceedings;

Considers:

That in terms of the articles of law notified by the Attorney General the accused has to answer for grievous bodily harm or alternatively for causing slight injuries on the person of Osman Abdulkadir Abdull. The other articles of law cited by the Attorney General are consequential and dependant on the guilt or otherwise of the accused to the principal charge which is that of having caused grievous or slight injuries to the injured person.

That the case rests entirely on an evaluation of the facts as borne out from the evidence resulting before this Court. From this it transpires that the injuries were sustained by the injured party in the course of a protest staged by some of the residents at the Marsa Open Centre for illegal immigrants who were objecting that an extra bed be put in their room. The evidence shows that the accused, who was at that time, the manager of the Open Centre, allowed one of the protesters to enter his office to discuss the complaint. Whilst this person, by the name of Mahmud el Habib, was inside the office his shouts alerted the others who were outside and in particular the above mentioned injured party who on seeking to enter said office ended up with his right wrist injured and claimed that the injuries were done to him by the accused who he

said manhandled him. Upon taking the witness stand this injured party testified that while he was standing outside the administration's office he saw the accused come out whereupon he grabbed and dragged the group leader (Mahmud el Habib) inside the building and on hearing shouts coming from inside which he recognised as those of Habib he rushed indoors and observed said Habib on the ground with the accused on top of him whereupon the accused on telling him to get out pushed him whereby he accidentally hit his head against the door and injured his hand as he tried to protect himself from hitting the door.

The medical certificate attests to the injuries to the head and wrist and as such the injuries are factual and reflect the actual injuries sustained by the injured party. That, which does not correspond to the facts as stated by the injured party is how he sustained his injuries. In this the injured party is contradicted not only by the accused but also by the female doctor who witnessed the incident and a certain Nor Ahmed Hassan (folio 82), then a resident in the Open Centre

After considering all the evidence the Court concludes and holds firm that the injuries suffered by the injured party were sustained through no direct or indirect intervention of the accused. To this effect it finds not at all credible the evidence of both Mahmud el Habib and the injured party Osman Abdulkadir which it considers in its material aspect of how the injuries were sustained by the injured party to be false.

Consequently, finds the accused not guilty and orders the executive police to institute criminal proceedings against said Mahmud El Habib and Osman Abdulkadir for perjury.

Orders that a copy of this judgement be notified to the Commissioner of Police.

< Final Judgement >

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