



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

**MAGISTRAT
DOREEN CLARKE**

Seduta tad-29 ta' Settembru, 2010

Numru. 824/2006

**The Police
(Inspector Maurice Curmi)**

vs

Miriam Reid

Today the 29th September 2010

Case Number: 824/2006

The Court,

Having that Miriam Reid, 49 years old, wife of Kim David, daughter of Emanuel Spiteri and Mary nee' Ciantar, born in Bormla, on the 3rd June 1957 and resident at 5 Triq Guliermu, Bormla, bearer of identity card number 383757M.

Was charged with having on the 23rd May 2006 and before that date in Saint Julians and in other places in these islands, through several acts committed at different times and constituting violations of the same provision of the law and committed in pursuance of the same design, by means of any unlawful practice, or by the use of any fictitious name, or the assumption of any false designation, or by means of any other deceit, device or pretence calculated to lead to the belief in the existence of any fictitious enterprise or of any imaginary power, influence or credit, or to create the expectation or apprehension of any chimerical event, made a gain of over €2329.37 to the prejudice of John Alamango.

Having seen the note of the Attorney General whereby the acts of the preliminary investigation were transmitted before this Court in order for it to hear this case summarily as a Court of Criminal Judicature as provided in sections:

- a) 18, 308, 309 and 310(1)(a) of Chapter 9 of the Laws of Malta;
- b) 17, 23, 31 and 533 of Chapter 9 of the Laws of Malta.

Having seen that defendant had no objections to the case being heard summarily.

Having heard the evidence and oral submissions of the parties.

Having seen the acts of the proceedings.

Having considered

That defendant is being charged with having made fraudulent gains to the detriment of a certain John Alamango who claims that he was defrauded of an amount of circa Lm9,000. Alamango is in fact alleging that defendant made up a story regarding the death of her husband and that she used this story to get him to pay her substantial amounts of money which she never paid back. Defendant on the other hand denies these allegations and

claims that it was Alamango who had financial problems and that he tried to get her to give him money.

In an attempt to substantiate the charges brought against defendant the prosecution brought a number of witnesses and some documentary evidence. The Court feels that it is necessary to make some observations in relation to various items of evidence.

The prosecuting office produced a list of phone calls and sms's exchanged between two mobile phones purportedly belonging to John Alamango and Miriam Reid without giving an indication as to which number belonged to whom. These lists were exhibited again by a representative of the service provider. However there is no shred of evidence to confirm that the two numbers indicated in the list in fact belonged to these two persons; neither is there any indication whatsoever as to which number was supposed to belong to whom.

One of the witnesses brought by the prosecution was Chantel Caddoo Cali. The purpose of her testimony was an attempt at corroborating Alamango's allegation that defendant used to claim that her husband had died. The Court however feels that this testimony can be given no weight whatsoever. Not only was this witness vague in her testimony, but she changed her version in the course of her deposition and she also admitted that she was approached by Alamango who offered her money in return for her deposition in this lawsuit; he also showed her a document, in his handwriting, containing his version of the episode in relation to which her testimony was being requested.

The two main witnesses in this case were the parte civile: John Alamango and defendant: Miriam Reid. It must be said that both these witnesses were extremely selective in what they said to the investigating officer prior to the commencement of these proceedings, to the point that the versions they gave during these proceedings resulted in very different scenarios from those that had emerged at an earlier stage. This obviously has a bearing on their

credibility; with regard to Alamango, his credibility is further put into question not only in view of his demeanor during his deposition but also by the conflicts, changing versions and “errors” he made in the course of his testimony and cross examination.

The Court feels that specific reference should be made to two aspects of Alamango’s deposition since these have a particular bearing on his credibility. Alamango claims that he considered defendant to be his girlfriend, and that he believed her husband to be dead; however he also says that they only used to meet in the mornings, never in the evening. It is very hard to believe that Alamango was convinced that defendant was free to openly pursue a relationship in view of her husband’s death, and yet they used to meet only in the morning.

With regards to his allegation of having, on account of her deception, spent circa Lm9,000 on defendant Alamango fails to produce receipts relative to the payments he claims to have made. The only receipt produced is that of the car he claims to have bought for defendant at the price of Lm2,500. This amount of Lm2,500 is in fact included in the Lm9000 he alleges to have been defrauded. It however transpires from the receipt that the car was actually purchased for the price of Lm1,500; it also transpires that defendant was given possession of this car for a short time and that after three months Alamango sold this car for Lm700.

There is no doubt that in criminal proceedings it is for the prosecution to prove the defendant’s guilt and not for defendant to prove his innocence; furthermore there must be produced by the prosecution enough evidence to convince the Court beyond any reasonable doubt as to the defendant’s guilt. This cannot be said to have been done in the case under examination. Not only is the credibility of the main witnesses in serious doubt but there is also an unresolved conflict in the versions given which must militate in favour of the defendant.

Kopja Informali ta' Sentenza

For these reasons the Court finds defendant not guilty of the charges brought against her and acquits her from the said charges. In view of the allegations made by the witness Chantal Caddoo Cali the Court is ordering that a copy of her testimony and this judgement are served on the Commissioner of Police for any action he may deem opportune.

< Sentenza Finali >

-----TMIEM-----