



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

**MAGISTRATE DR.
AUDREY DEMICOLI**

Sitting of the 21 st October, 2010

Number. 474/2007

**Police
(Inspector Paul Bond)**

vs

Mark John Lynch

The Court,

Having seen that the accused, Mark John Lynch, son of the late Michael and Nora nee' Twoney, born in Ipswich, England on the 13/08/1967 and residing at No. 7, "Rocamar Flats", Horatio Nelson Street, St. Paul's Bay and holder of passport number 80042375 was arraigned before it and charged with having:

On the 30/05/2007 between 2.15 am, and 3.00 am, whilst at St. Paul's Bay, voluntary, caused injuries of grievous nature over the right forearm of Gingell Robin as certified

by Dr. Elan Vella MD of St. Luke's hospital. Moreover, on the same date at about 2.15 am., whilst at Flat 7, "Rocamar Flats", Horatio Nelson Street, St. Paul's Bay, threatened Samuel Seguna by putting a knife against his neck and for having kept and carried same in his possession without a licence from the Commissioner of Police. Furthermore on the same date, times and place, caused willful damage to the door of the apartment in question the estimation of which exceeds the Lm50 but less than Lm500 to the detriment of Martin Buhagiar.

Having seen all the acts of the proceedings including the Attorney General's consent dated 8th of June, 2007(exhibited at folio 8 of the proceedings) for this case to be treated summarily.

Having heard that the accused declared that he has no objection that this case is heard summarily.

Having heard all the evidence brought forward by the Prosecution and the Defence counsel in this case.

Having heard the final submissions made by the Prosecution and the Defence counsel.

The facts of this case are the following. On the 30th May 2007 at around 2.30am the Police received a report that a fight had taken place in H. Nelson Street, St. Paul's Bay whereby a British national sustained injuries in his right forearm after he alleged that he was pushed onto the glass door of Rocca Mar Apartments where the accused was residing at the time. From subsequent investigations carried out by the Police it transpired that earlier on during the same night two youngsters, Samuel Seguna and George Cutajar, were having a drink in a bar in St. Paul's Bay where they met the accused who asked them to go over to his apartment. Samuel Seguna told the Police that while they were in the accused's apartment the latter asked them to furnish him with some cocaine and when they replied that they were not in a position to do so he picked up a knife and placed it against Seguna's neck at which point Seguna and Cutajar said that they were going

to try and find some cocaine in order to be able to leave the apartment and consequently they left and went to continue having drinks in another bar where they met Robin Gingell and some other English men and after they informed them what had happened in the accused's apartment they asked them to accompany them to the said apartment to help them clarify matters with the accused. A brawl ensued outside the accused's apartment whereby Robin Gingell ended up suffering injuries in his left forearm and wrist.

The only witness brought forward by the Prosecution who gave evidence regarding what took place in the accused's apartment and outside the said apartment is Samuel Seguna who testified on two occasions whereby he gave a very scanty and conflicting version of what effectively occurred on the night in question. The said witness in fact stated that he had been having a drink with his friend George at a bar in St. Paul's Bay when the accused walked in and offered him a drink and subsequently invited them over to his apartment. Seguna maintains that when they got to the accused's apartment the latter picked up a knife and put it against his neck asking him to provide him with some cocaine. The accused only put down the knife when Seguna told him he was going to get him some cocaine, according to the same Seguna. Seguna stated that he and his friend then walked out of the accused's apartment where they met a group of English men and they asked them to go with them to the accused's apartment in order to help them resolve matters with the accused. When they arrived outside the accused's apartment one of the English men smashed the front glass door and got injured. This witness maintains that no-one pushed the injured person against the glass door.

It is relevant to note that the allegedly injured person, i.e Robin Gingell was never produced as a witness in these proceedings and neither was George Cutajar. In relation to Robin Gingell the Prosecuting Officer maintained that Robin Gingell was released from hospital the day after the

incident and he refused to come to Court to give evidence and left Malta on the same day.

The accused chose not to give evidence in these proceedings but he had released a statement on the 30th May 2007 whereby he had stated that on the day in question he had been drinking all day and he could not remember much of what had occurred. He also said that the three Englishmen had gone to his apartment and threatened him and that he had pushed the door because he was scared and that whatever he did was in self defence.

The accused is being charged with having caused grievous injuries to Robin Gingell, as well as with having threatened Samuel Seguna by putting a knife against his neck as well as for having been in possession of a knife without the relative police license and finally with having caused willful damage to the property of Mario Buhagiar i.e the owner of the block of apartments where the brawl took place. After having examined all the evidence brought forward by the Prosecution in this case the Court deems that none of the charges have been proven beyond reasonable doubt. In relation to the first charge the best evidence, i.e Robin Gingell, was not brought forward as a witness, whilst in relation to the charge regarding the threat made to Samuel Seguna, the Court feels that it cannot rely on the evidence of Samuel Seguna since his version of events is extremely scanty and not very credible. The Court fails to understand why if he had really and truly been threatened with a knife by the accused he chose to return to the accused's apartment after a few minutes to clarify matters. As to the charge relating to the possession of a knife without a license issued by the Commissioner of Police the Prosecution did not produce the said knife in these proceedings nor did it bring forward any evidence relating to the lack of a relative license. Regarding the charge of willful damage the Court is faced with conflicting evidence whereby on the one hand Samuel Seguna maintains that that it was Robin Gingell who smashed the glass door and on the other hand the accused who declared in his statement

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that he pushed the glass door because he was afraid of the three English men who went over to his apartment to threaten him and that whatever he did was in self defence.

The Court deems that none of the charges brought forward against the accused have been proven beyond reasonable doubt.

For the above mentioned reasons the Court declares the accused as not guilty of all the charges brought against him and consequently acquits him from the said charges

< Final Judgement >

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