



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

**MAGISTRATE DR.
AUDREY DEMICOLI**

Sitting of the 27th September, 2012

Number. 774/2011

**Police
(Inspector Kevin J. Farrugia)**

vs

Abdi Abdulkadir Mohamed

Il-Qorti;

Having seen that the accused Abdi Abdulkadir of 27 years, son of Abdi Abdulkadir Shi Hasan and Hawo Hashi Kayre, born in Somalia on the 08th of March 1984, residing at Marsa Open Centre, bearing ID card number 0053680(A) was arraigned before it and charged with having:

On the 29th June 2011 at about 17:30 hours at Marsa Police Station, Marsa and in the Maltese Islands:

- a) maliciously with the intent to commit a crime of grievous bodily harm on the person of P.C. 799 Raymond Frendo of I.D. 49664(M) have manifested such intent crime which crime was not completed in consequence of some accidental cause independent of the will of the offender.
- b) Having accused injuries of slight nature to P.C.799 Raymond Frendo as certified by Dr. Eric Scerri M.D. (Reg No. 1686) of Floriana Health Centre.
- c) Caused bodily harm to any person lawfully charged with a public duty P.C. 799 Raymond Frendo, while in the act of discharging his duty or because of his having discharged such duty, or with intent to intimidate or unduly influence him in the discharge of such duty.
- d) Assaulted or resisted by violence or active force not amounting to public violence, any person lawfully charged with a public duty P.C. 799 Raymond Frendo when in the execution of the law or of a lawful order issued by a competent authority.
- e) Charged with having willfully disturbed the public good order or the public peace.

Having seen all documents and records of the proceedings including the note filed by the Attorney General (folio 65) dated 28th December 2011 whereby he transmitted the acts and records of the preliminary investigation to be heard and decided as by this Court as a Court of Criminal Judicature and whereby he deemed that from the preliminary investigation there might result an offence or offences under the provisions of:-

- (a) articles 41(1)(a), 214, 216 and 222(c) of Chapter 9 of the Laws of Malta;
- (b) articles 214 and 221, 222(1)(c) of Chapter 9 of the Laws of Malta;
- (c) articles 95 and 96 of Chapter 9 of the Laws of Malta;
- (d) articles 338(dd) of Chapter 9 of the Laws of Malta;
- (e) articles 17, 23, 23A, 31 and 533 of Chapter 9 of the Laws of Malta;

Having seen that on the 13th January 2012 (*at folio 66*) the accused replied that he had no objection that his case is heard by summary proceedings and decided by this Court as a Court of Criminal Judicature.

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

Having considered:

That the facts of this case are as follows. On the 29th June 2011 at around 7.30pm the accused walked aggressively into the Marsa Police Station and expected PC799 Raymond Frendo to attend to him immediately notwithstanding the fact that the former was at that moment taking a report from a third party. When PC 799 told the accused to wait a few minutes while he finished taking the third party's report the accused grabbed a chair and attacked the Police Constable by attempting to hit him in the head with the chair. Luckily the Police Constable reacted promptly and put up his arms thus avoiding being hit in the head with the chair and was only hit in his arms as transpires from the medical certificate exhibited at folio 24 of the acts of these proceedings and ended up suffering only slight injuries. These facts were all confirmed by PC 799 Raymond Frendo who gave evidence on the 20th October 2011. Furthermore the accused also confirmed that he had grabbed a chair and tried to hit PC 799 in the head because he wanted to injure him. The accused in fact released a statement to the Police on the 29th of June 2010¹ whereby he said that he hated the Police and that he hit the policeman with the chair for this reason. He also stated that he had wanted to go to the Police Station with a knife which he had made himself out of a tin bottle but this was taken away from him by another Somali before he went to the station. He also said that he went to the Police Station because he wanted to kick the Police due to his hatred towards them. When he gave evidence on the 23rd February 2012 the accused confirmed that he had attacked the Police Officer

¹ Inserted at folio 45 and 46 of the acts of these proceedings.

but he said that he did not hate the Police because they were treating him well at the Corradino Correctional Facility.

The accused is being charged with attempting to cause grievous injuries to PC 799, as well as with having caused injuries of a slight nature to the said PC799, and with having caused bodily harm and assaulting and resisting by violence a person lawfully charged with a public duty and with having willfully disturbed the public peace. There is no doubt whatsoever that the Prosecution has managed to prove all the said charges to a level of beyond reasonable doubt since not only did PC 799 explain how he was attacked by the accused but the accused himself confirmed how he had specifically gone to the Police Station with the specific intention of attacking the Police because of his hatred towards them. The Defense Counsel in fact submitted that it had nothing to say regarding the charges since from the evidence brought forward by the Prosecution it transpired that the accused was guilty of the said charges. The Court is therefore going to declare the accused guilty of all the charges brought against him but the second charge is going to be deemed as being absorbed in the first charge.

For the purposes of meeting out punishment the Court took into consideration the psychological and psychiatric problems encountered by the accused because of the difficult situations he went through and although it deems that an effective prison term is the most adequate punishment in the circumstances, this shall be closer to the minimum than the maximum.

For these reasons and after having seen the sections of the law indicated by the Attorney General in his note dated 28th December 2011, namely Section 41(1)(a), 214, 216, 221, 222(c), 95, 96, 338(dd), 17, 23, 23A and 31 of Chapter 9 of The Laws of Malta the Court finds the accused guilty of all the charges brought against him and condemns him to thirteen (13) months imprisonment.

Informal Copy of Judgement

< Final Judgement >

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