



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

**MAGISTRATE DR.
ANTONIO MICALLEF TRIGONA**

Sitting of the 21 st November, 2012

Number 1095/2009

The Police
(Inspector Therese Sciberras)

vs

George Henry Wayte

The Court,

Having seen the charges brought against the accused holder of identity card number 363101L, charged with whilst in the Maltese Islands, in Mosta on the night between the 14th and 15th August 2009 sometime between 22:00hrs and 05:00hrs:

1. caused grievous injuries on the person of Kerry Michael Murphy as certified by Dr Jurgen R Gatt M.D., Dr John Cutajar M.D.

Informal Copy of Judgement

2. on the same date, time and circumstances caused slight injuries on the person of Mary Murphy as certified by Dr A. Bonello M.D.

3. on the same date, time and circumstances uttered insults or threatened against Kerry Michael Murphy and Mary Murphy.

The Court is requested to issue a protection order in terms of Article 412(c) so as to prohibit the accused from going near the victims, their residences and the places where they can be found. Furthermore to provide for the security of the people involved and their family in terms of Article 383 and 384 of Chapter 9.

Having seen the Attorney General's note that the case be heard summarily, not opposed by the accused;

Having heard the evidence;

Having heard submissions;

Considers:

It transpires that the accused and the injured party, at the time of the incident, resided their respective apartments in a block of two, sharing a common undivided roof on which both parties had agreed as to which part to occupy. On the day in question both parties were on their respective part of the roof. Evidence shows that in the early hours of the 15th, after that complainant and his wife had at some earlier time left the common roof, the accused and his wife were clearing their stuff when complainant Kerry Michael Murphy returned and was approached by accused's dog. This gave rise to an argument which degenerated to an extent that both parties came to blows, when complainant kicked out at the dog. Accused is charged with having caused grievous bodily harm to Kerry Michael Murphy and slight injuries to his wife. Complainants are facing separate charges regarding the injuries suffered by the accused and his wife. As invariably happens in such type of actions the parties give

their own versions to what effectively happened which more often than not are in conflict with each other. This case appears to conform to the norm. Notwithstanding, the Court has only one version from complaints' part which is that of the wife. From her evidence it clearly transpires that she was not present from the very beginning.

Defence council on the other hand whilst not denying the argument 'per se' and the injuries which were suffered by complainant and his wife rested his defence on provocation.

On examining all the evidence and documents presented the Court is of the firm belief that there was an element of provocation by complainant which gave rise to the incident.

By way of injuries the medical certificates supported by evidence given by the medical doctors concerned are more than sufficient proof that Kerry Michael Murphy suffered grievous injuries 'per durata' whilst his wife suffered slight injuries.

On the strength of what has been said above the Court on finding that there was provocation, having seen Article 230(c) and 231 (1)(c) of Chapter 9 declares accused guilty of having caused grievous bodily harm within the parameters of Article 216(1)(d) on Kerry Michael Murphy but acquits him by application of Article 22 of Chapter 446 on condition that he commits no further offence punishable with imprisonment within one month from today. Declares him non-suited in so far as to the slight injuries on Mary Murphy in virtue of Article 231(2) of Chapter 9.

< Final Judgement >

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