MALTA

QORTI TAL-MAGISTRATI (MALTA)

MAGISTRAT DR.
FRANCESCO DEPASQUALE

Seduta ta' l-14 ta' Jannar, 2013

Avviz Numru. 314/2009

Dr Trevor Zammit Id No 499859(M)

vs

Joanna Pullicino u Matthew Vella Id No 279980(M) fil-kapacita' tieghu bhala l-Editur tal-Maltatoday On Sunday

Il-Qorti

Rat l-avviz ipprezentat fit-28 ta' Awissu 2009 fejn l-attur talab lill-Qorti sabiex tikkundanna lill-konvenuti sabiex ihallsu kull wiehed jew min minnhom is-somma ta' mhux aktar minn hames t'elef Liri Maltin (Lm5,000) bhala danni ai termini ta' l-Artikolu 28 tal-Kap 248 tal-Ligijiet ta' Malta u dana stante illi b'artikolu ippubblikat fil-gurnal Maltatoday ta' nhar il-Hadd, 23 ta' Awissu 2009, intitolat 'Veterinary Abuse' intkom jew min minnkhom immalafamajtu lill-attur bil-ghan car li ttellfulu jew tnaqqsulu r-reputazzjoni tieghu.

Rat ir-risposta ta' Matthew Vella npprezentata fil-5 ta' Novembru 2009 fejn eccepixxa illi:-

1. Fl-ewwel lok, l-esponent jeccepixxi illi l-artikolu illi qieghed jillamenta minnu r-rikorrent ma kienx artikolu miktub minn xi gurnalist izda kienet ittra ta' qarrej ta' l-istess gurnal.

2. Fit-tieni lok u minghajr pregudizzju ghas-suespost, ir-rikorrent ghandu jindika ezattament liema huma dawk il-frazijiet li bihom huwa hassu malafamat.

3. Fit-tielet lok u minghajr pregudizzju ghas-suespost, l-ittra de quo mhix ingurjuza stante li l-intimat l-iehor Joanna Pullicino kien qieghed biss jikkummenta dwar fatti sostanzjalment veri dwar kwistjoni t'interess pubbliku, liema kummenti huma accettabbli f' socjeta demokratika, kif ukoll kemm taht il-Ligi ta' l-Istampa u wkoll taht il-Konvenzjoni Ewropeja dwar id-Drittijiet tal-Bniedem.

Rat ir-risposta ulterjuri ta' l-istess Matthew Vella pprezentata fit-30 ta' Novembru 2009 fejn eccepixxa ulterjorment illi l-attur bl-ebda mod ma jista jilmenta li gie malafamant ghaliex ma giex indikat b'ismu u difficilment huwa identifikabbli mill-'average reader'.

Rat ir-risposta ta' Joanna Pullicino pprezentata fit-30 ta' Marzu 2010 fejn eccepiet illi:-

1. Fl-ewwel lok u minghajr pregudizzju ghas-suespost, ir-rikorrent ghandu jindika ezattament liema huma dawk il-frazijiet li bihom huwa hassu malafamat.

2. Fit-tieni lok u minghajr pregudizzju ghas-suespost, ir-rikorrent bl-ebda mod ma jista jilmenta li gie malafamant ghaliex ma giex indikat b'ismu u difficilment huwa identifikabbli mill-'average reader'

3. Fit-tielet lok u minghajr pregudizzju ghas-suespost, l-ittra de quo mhix ingurjuza stante li l-intimat l-esponent kiteb biss dwar fatti u cirkostanzi li ghada minnhom hu personalment u kif ukoll ikkummenta fuq l-istess fatti,

liema kummenti huma accettabbli f'socjeta demokratika, kif ukoll kemm taht il-Ligi ta' l-Istampa u ukoll taht il-Konvenzjoni Ewropeja dwar id-Drittijiet tal-Bniedem.

Rat l-artikolu ippubblikat fil-Maltatoday on Sunday fil-harga tat-23 ta' Awissu 2009 intitolat 'Veterinary abuse' ipppreżentata a fol 2 tal-process.

Rat ix-xhieda ta' Dr Trevor Zammit moghtija fis 23 ta' Gunju 2010 u in kontro ezami fis-27 ta' Frar 2012.

Rat ix-xhieda ta' Lou Anne Sammut moghtija fl-1 ta' Dicembru 2010.

Rat ix-xhieda ta' Joanna Pullicino moghtija fl-10 ta' Ottubru 2011 u in kontro ezami fit-23 ta' Jannar 2012.

Rat illi fis-seduta tat-12 ta' Lulju 2012 il-kawza thalliet ghas-sentenza bil-fakulta' tan-noti.

Rat in-nota ta' sottomissjoni tar-rikorrent ipprezentata fit-18 ta' Settembru 2012.

Ikkunsidrat

Bhala fatti li hargu mill-provi, jirrizulta illi l-intimata Joanna Pullicino hija persuna illi thobb tiehu hsieb lill-annimali illi jkunu bla dar u, di fatti, hija membru f'diversi ghaqdiet li jiehdu hsieb tali annimali. Minn naha l-ohra, jirrizulta illi r-rikrorrent kien il-Vet illi kien assenjat sabiex ikun 'on call' fis-sistema ta' Emergenza imtella mill-Veterinary Association fil-mument illi l-intimata kellha bzonn is-servizzi ta' Vet.

Jirrizulta illi l-intimata kellha ghandha qattusa illi kienet marida hafna u kienet di fatti qieghda tmut. Tali qattusa kienet taht il-kura ta' tabiba ohra illi taghmel uzu mis-servizzi taghha l-intimata, u infatti l-istess intimata kienet ghand dina t-tabiba ftit qabel ma marret ghand ir-rikorrent, izda dana b'annimal iehor.

In fatti, jirrizulta li l-intimata, meta wasslet id-dar u rat il-qattusa fi stat hazin, cemplet lit-tabiba illi taghmel uzu mis-servizzi taghha, izda dina infurmatha illi ma setghetx taqdiha u ghalhekk l-intimata cemplet lill-Emergency Vet Service illi tawha n-numru tar-rikorrent. hija kkomunikat mar-rikorrenti fid-disgha ta’ billejl u marret fil-klinika tieghu.

Meta marret hemm, hija staqsiet lir-rikorrenti sabiex tqieghed il-qattusa fuq id-drip filwaqt illi wrietu r-rapporti illi gia kellha fuq il-qattusa mit-tabiba taghha. Hija kienet kemmxejn ecitata u ghalhekk ir-rikorrent, wara li kkalmaha, ra ir-rapporti li kellha u ezamina l-qattusa, fejn gharrafha li kienet qieghda tbaghti hafna u kellha titraqqad. L-intimata talbitu sabiex jikkomunika mat-tabiba taghha sabiex taghtih aktar rapporti, liema rapporti inghaddewlu permezz ta’ e-mail ftit wara. Madanakollu, il-prognosi baqghet l-istess u ghalhekk gie deciz illi l-qattusa tittraqqad.

Ir-rikorrent ipproceda biex iraqqad lill-qattusa, imbaghad r-rikorrent gharraf lill-intimata illi setghet tiddisponi bil-qattusa hija stess jew inkellha jiehu hsieb hu, izda kellu jithallas ta’ tali servizz peress illi jaghmel uzu minn terzi persuni.

L-intimata gharrfitu illi kienet ser tiehu hsieb hi stess u, wara illi talbitu johrog certifikat ghas-servizz minn maghmul, huwa hareg tali certifikat kif ukoll il-kont ghas-serviżżi minnu resi, ghal liema servizzi huwa thallas u l-intimata telqet ‘l hemm.

Tali process ha, skond ir-rikorrent, madwar tlett kwarti filwaqt illi l-intimata tishaq illi dana kien ‘a two minute job’ illi dam, madanakollu, madwar ghoxrin minuta.

L-intimata illi, meta kienet ghand ir-rikorrent, ma kkonfrontatux dwar il-kont ghas-servizzi tieghu peress illi ma kienetx taf x’qed jigri, sussegwentement kienet irrabjata mill-fatt illi hija hallset hamsa u sittin ewro (€65) ghas-servizz moghti mir-rikorrent u pprocediet biex tikteb ittra f’zewg gazzetti, fosthom il-Malta Today, fejn uriet id-disapprovazzjoni taghha ghal mod kif giet trattata minn

“vet clinic in Attard” u ipprocediet biex tiddeskrivi l-fatt illi ghas-servizz hi kienet “ripped (me) off completely”. Hi ddeskriviet il-fatt illi r-rikrorent reggha ghadda lilha l-qattusa sabiex tiddisponi minnha bhala att illi kien “unprofessional, inhuman and dangerous, to say the least”.

Fl-ittra taghha, l-intimata tkompli tghid illi hi hasset li r-rikorrent “took advantage of being the only clinic on call for the night in requesting such an exorbitant sum”. Finalment, wara li ghaddiet biex issemmi kaz iehor illi kellha ma vet iehor, illi tieghu/taghha ma taghti ebda dettalji, l-intimata semmiet tlett vets b’isimhom illi taghmel uzu mis-servizzi taghhom u li, skond hi “have been a pleasure to work with and who have shown incredible kindness to these strays”.

Difiza

Sabiex jilqghu ghall-akkuzi maghmulha fil-konfront taghhom l-intimati jressqu zewg eccezzjonijiet principali, ossija illi r-rikorrent ma giex identifikat b’ismu u ghalhekk huwa difficilment identifikabbli mill-‘average reader’, kif ukoll illi Pullicino kitbet biss fuq fatti u cirkostanzi li ghaddiet minnhom hi u ghalhekk il-kummenti li ghamlet hi kienu ‘fair comment’ illi wiehed seta jaghmel liberalment.

Dwar l-ewwel difiza, sabiex jigi stabbilit jekk persuna hijiex identifikabbli jew le, il-principji stabbiliti huma s-segwenti (Gatley on Libel and Slander op. cit. paras 7.3 sa 7.5, pp. 184 sa 186.):

“The issue of identification is to be decided on the same principles as those which govern the question of whether the words are capable of a defamatory meaning. Where the claimant is expressly identified by name, it is not necessary to produce evidence that anyone to whom the statement was published did identify the claimant. The question is not whether anyone did identify the claimant but whether persons who were acquainted with the claimant could identify him from the words used...Where the claimant is referred to in an indirect way or by

implication it will be a question of degree how far evidence will be required to connect the libel with him. At one extreme, if there is a libel on ‘the Prime Minister’ that officer does not need to produce witnesses to testify that they know who he is. At the other extreme, the claimant may only be identifiable by reason of extraneous facts which are not generally known, in which case there is no actionable publication unless it is shown that the words were communicated to persons with such knowledge. Even in the latter type of case, however, it is not enough that the recipients of the statement did understand it to refer to the claimant: the issue is whether reasonable people with their knowledge would so understand it...The general rule is that a statement is to be understood in the way in which a reasonable recipient would understand it at the time it is published: subsequent knowledge which makes the recipient look back on it in a different light will not make it defamatory...it is immaterial that the defendant did not intend to refer to the claimant, or did not even know of his existence. The question is: Would the words complained of be understood by reasonable people who knew the claimant to refer to him?”

Jigi rilevat ukoll illi kif stqarrew l-awturi Price u Duodu fil-kitba taghhom Defamation: Law, Procedure and Practice (para. 4-03, pp. 32 sa 33) il-principji ta’ identifikazzjoni jew identifikabilita` gew spjegati kif gej:

“Identification of the claimant can arise by virtue of the ‘natural and ordinary’ meaning of the words. In Watts, it was the juxtaposition of the photograph of the claimant with the defamatory words. More commonly it arises because certain readers have knowledge of particular matters, which lead them to understand the statement to refer to the claimant. This in known as identification by innuendo. In common with innuendo in relation to meaning, the particular matters necessary to make the identification may be known to a large number of readers, as was the case in Lloyd, or a limited number, as in Morgan. The claimant must prove by direct evidence or inference that there are readers who have the necessary knowledge...The test is whether reasonable readers generally or a reasonable reader with the particular knowledge would understand the statement to refer to the

claimant. Mere conjecture that it might refer to the claimant is insufficient...The test is objective and the intention of the defendant in this as in other areas is irrelevant for the purposes of proving the claimant's case..."

Kif stqarr ukoll l-awtur P. Carey fil-ktieb tieghu Media Law 1996 pagna 43,

"The plaintiff must show that the words were published of and concerning him. It will be no defence that the plaintiff is not referred to by name if he would be capable of being identified by the reasonable person.... The test, in every case, is whether reasonable people would understand the words to point to the plaintiff personally."

Finalment, fil-qrati Maltin, il-kwistjoni dwar x'wiehed jifhem b'qarrej ordinarju gie diskuss fis-sentenza Dr. Alfred Sant vs Joseph Mikallef deciza mil-Qorti tal-Appell (Inferjuri) fl-10 ta' Jannar 2003, fejn intqal

"B'qarrej ordinarju wiehed necessarjament jifhem dak li fid-dutrina Ingliza, jissejjah 'right thinking person'. Persuna li ma toqghodx tissotolizza, imma tifhem il-kliem jew stampat iehor 'in their natural and ordinary meaning i.e. in the meaning in which reasonable men of ordinary intelligence, with the ordinary men's general knowledge and experience or wordly affairs would be likely to understand them' (Gately op.it pagna 47). Dedotti mill-istampat hemm imbaghad l-inferenzi 'which a reasonable reader guided not by any special but only by general knowledge and not fettered by any strict legal rules of construction would draw from the words. (Jones vs Skelton 1963)".

Issa fil-kaz in ezami, jirrizulta illi l-intimata Pullicino, fl-ittra taghha, taghmel referenza ghall fatt illi l-'vet clinic' illi dwaru hija kienet qed tilmenta kien jinsab gewwa Attard.

Tali dettal, f'kazijiet normali, wahdu certament ma jistax jitqies bhala sufficjenti sabiex inkun hemm identifikazzjoni. Madanakollu, minn informazzjoni pprovduta mill-Veterinary Regulation Directorate, jirrizulta illi f'Malta u Ghawdex kollha hawn ftit aktar minn hamsin Vet biss u,

bhala klinici veterinari, kull ma hawn huma sbatax (17). Apparti minn hekk, jirrizulta wkoll illi f'Attard l-unika klinika illi hemm hija dik tar-rikorrent.

Ghalhekk, f'komunita' tant zghira ta' tobba specjalizzati fl-annimali u f'socjeta fejn l-annimali huma meqjusa bhala parti mill-familja u li ghalhekk il-kura taghhom hija importanti wkoll, certament huwa facili sabiex wiehed jifhem illi l-artikolu in kwistjoni miktub mill-intimata kien indirizzat lejn ir-rikorrent.

Apparti minn hekk, jinghad ukoll illi peress illi l-ittra kienet tikkoncerna servizzi veterinarji, dina certament attirat, bhala qarreja ordinarji, qarrejja illi ghandhom l-annimali u jadoperaw mis-servizzi tal-Veterinarju, u ghalhekk, certament l-identifikazzjoni tar-rikorrent, ghalkemm ma saritx bl-isem, kienet sufficjenti meta hija semmiet ili tali klinika kienet gewwa Attard. L-istess, per ezempju, ma jistax jinghad ghall veterinarju l-iehor illi hija semmiet izda li ma tat ebda indikazzjoni dwaru fl-artikolu, u dana peress illi f'dan il-kaz, l-intimata kull ma ghamlet huwa li semmiet li kien hemm kaz ma vet izda ma tat ebda dettalji dwar fejn jopera jew topera jew dettalji ta' isem.

Jidher car, ghalhekk, illi meta l-intimata qalet illi l-klinika li dwarha kienet qed tilmenta kienet qieghda gewwa Attard, hija kelha l-intenzjoni li tidentifika lir-rikorrent f'tali artikolu.

Ghalhekk l-argument li r-rikorrent ma huwiex identifikabbli ma tregix.

It-tieni difiza imressqa mill-intimati kienet illi dak li inkiteb kien 'fair comment', peress illi l-intimata Pullicino kitbet dak li kien attwalment gralha.

Kif gie rilevat minn Gatley fil-kitba tieghu"On Libel and Slander", Seventh Edition, para 719: "

A writer may not suggest or invent facts, or adopt as true the untrue statements of fact made by others, and then comment on them on the assumption that they are true. If

the facts upon which the comment purports to be made do not exist the defence of fair comment must fail”

Dana ghalhekk jiccara li ghall-iskop biex tapplika d-difiza tal-fair comment, huwa necessarju li l-istampat ikun jikkontjenti mhux biss il-verità oggettiva tal-fatti izda wkoll il-korrettezza formali ta’ l-esposizzjoni taghhom. Huwa impellenti ghalhekk illi qabel il-pubblikazzjoni l-fonti ta’ l-istess fatti tigi diligentement valjata ghall-fini ta’ l-attendibilità taghhom.

Kif ikompli jghid il-Gatley,

“to succeed in a defence of fair comment the words complained of must be shown to be (i) comment; (ii) fair comment; and (iii) fair comment on some matter of public interest” (Gatley, op.cit. para. 704).

Dana huwa stabbilit ukoll fis-sistema guridika Taljana skond decizjoni tal-Qorti tal-Cassazione tal-25 ta’ Mejju 2000, Numru 6877, fejn jinghad illi jehtiegu wkoll tliet elementi precizi, u cjoe, li

“(i) i fatti esposti sono veri, (ii) vi è un interesse pubblico alla conoscenza del fatto; u (iii) vi sia correttezza formale dell’esposizione che non travilichi lo scopo informativo”.

Dawna l-elementi gew rikonoxxjuti mill-Qrati taghna ukoll. Di fatti, is-sentenza fl-ismijiet Anthony Degiovanni et noe v. Mark Lombardo et, Appell Civili Nru. 966/01 deciza mill-Qorti ta’ l-Appell (Sede Inferjuri) fl-24 Novembru 2003, inghad illi:
“huwa ghalhekk car li daqs kemm hija mehtiega l-libertà ta’ l-espressjoni, hekk ukoll hija essenzjali u huwa wkoll dritt inaljenabbli, li wiehed jipprotegi l-fama tieghu, bil-mezzi legali kollha disponibbli ... kulhadd huwa liberu sabiex jaghti l-opinjoni tieghu u anke jaghti gudizzju tieghu, però tali espressjoni ma ghandha qatt twassal sabiex jigu attribwiti atti lil xi persuna, b’mod li jattakkaw ir-reputazzjoni ta’ l-istess u l-fama tieghu, meta tali atti lanqas ikunu veri. Illi infatti fis-sentenza “Onor. Charles Buhagiar v. Ray Bugeja” (P.A. N.A. 19 ta’ Jannar 1996)

inghad li: “Il-linja medjana fejn proprio d-dritt ta’ espressjoni libera taccedi dak ragonevoli u ghandha tigi punita, ghax issir minflok ksur tad-drittijiet ta’ haddiehor; huwa proprio ... fejn l-espressjoni tigi bbazata fuq fatti skorretti”. Illi f’dan il-kuntest id-differenza bejn “allegazzjoni ta’ fatt” u “comment” hija wahda illum stabbilita fil-gurisprudenza taghna. “F’materja ta’ ingurija bl-istampa ghandha ssir distinzjoni bejn “allegation of fact” u dak li huwa “comment”. Biex tirnexxi d-difiza tal-verità tal-konvicju, il-fatt ghandu jigi ppruvat. Il-“comment” biex ikun gustifikat irid ikun “fair and bona fide” u ma jistax ikun “fair u bona fide” jekk il-fatt attribwit lill-kwerelant ma jkunx veru” (“Reginald Miller v. Harold Scorey” – XXXVI.iv.843). Illi ghalhekk ma tistax tirnexxi l-eccezzjoni tal-“fair comment” “jekk ma jigux ippruvat sodisfacentement il-fatti addebitati lill-kwerelant, u ma tistax tirnexxi d-difiza tal-‘justification’ u jekk il-fatti ma jkunux veri, lanqas jista’ jkun hemm ‘fair comment’ (“Anglu Camilleri v. Anthony Zammit, Vol. XI.IV.1195; “Dr. Joseph M. Ciappara v. Joseph Zammit” JSP, Citaz. Nru. 929/90 – 3 ta’ Ottubru 1991). Illi sabiex isir dan l-ezami wiehed irid jiehu l-kliem fis-sens normali u ordinarju taghho, u dan ifisser “in the meaning which reasonable or ordinary men of ordinary intelligence with the ordinary man’s general knowledge and experience of world affairs, would be likely to understand them”, dan jista’ jinkludi “an implication or inference which a reasonable reader guided not by any special but only general knowledge and not fettered by any strict legal rules of construction would draw from the word”. (“Jones v. Skelton” (1963) W.L.R. pg. 1371 (P.C)).
Il-Qorti tinnota illi mill-ittra, l-intimata ghamlet tlett stqarrijiet illi kienu qed jigu kkunsidrati bhala malafamanti mir-rikorrent, u dawna kienu jirrigwardaw il-kliem “the vet clinic in Attard ripped me off completely”, “a two minute job” u “this vet bundled the dead kitten in a towel ... was unprofessional, inhuman and dangerous, to say the least.”

Mill-fatti prodotti jirrizulta ppruvat illi fis-servizz tal-veterinarju, ma tesisti ebda tariffa illi tistabilixxi l-hlasijiet ghas-servizzi resi minnhom b’mod illi kullhadd huwa liberu illi jistabilixxi t-tariffi tieghu. Dana ghalhekk iwassal ghal diskrepanza fil-hlasijiet dovuti minn tabib ghal iehor, u

dana huwa li wassal lill-intimata sabiex taghmel il-kumment taghha. Filwaqt illi l-Qorti ma tikkundannax l-uzu ta' tali kliem, wiehed ma jistax ma jinnutax illi fis-socjeta ta' llum, huwa permessibbli illi wiehed jikkummenta dwar servizz lilu moghti u spejjez minnu inkorsi, u dana kemm in vista tal-fatt illi l-liberta' ta' l-espressjoni hija dritt moghti lill kullhadd, kif ukoll minhabba fil-fatt illi li wiehed jikummenta dwar spejjez minnu inkorsi hija haga naturali u ta' beneficcju ghall-komunita' kummercjali in vista tas-sitwazzjoni ekonomika illi presentement qieghda tahkem id-dinja li nafu. Ghalhekk, il-qorti tqis illi l-fatt li l-intimata ddeskriviet il fatt illi hija hassitha "ripped off" ma hijiex malafamanti mminnha innifisha.

Madanakollu, dana ma jghoddx ghaz-zewg kummenti l-ohra illi ghamlet l-istess intimata, fuq imsemmija. Infatti, jirrizulta illi dak li hija ddeskrivet bhala 'a two minute job' ma kien assolutament xejn a 'two minute job' peress illi hija stess imbaghad stqarret illi damet hemm madwar ghoxrin minuta filwaqt illi r-rikorrent qal illi attwalment damet madwar tlett kwarti.

Biex wiehed jghid illi l-kumment taghha kien wiehed gust, wiehed irid jassikura illi lill- qarrejja jinghatghu il-fatti kollha kif graw l-affarjiet, sabiex huma jiggudikaw dak li huwa tajjeb jew le. Fil-kaz odjern, l-intimata, naqqset milli tghid illi r-rikorrent ezamina r-records tal-qattusa, ezamina il-qattusa kif ukoll ikkomunika mat-tabiba illi kienet qed tinvista l-qattusa qablu u hareg ic-certifikati necessarji. Aparti minn hekk, fejn l-intimata semmiet illi r-rikorrent taha lura l-qattusa, hija naqqset milli tghid li attwalment ir-rikorrent kien offrilha illi jiddisponi bil-qattusa hu stess, versu prezz ta' hmistax-il ewro (€15), u li hu roddilha lura qattusa sabiex tiddisponi minnha hi wara li hija rrifjutat illi thallas ghal tali servizz.

Il-Qorti tqis illi tali omissjonjiet da' parte tal-intimata kienu intenzjonati mill-intimata sabiex il-qarrej ordinarju jinghata stampa inveritjera ta' dak illi attwalment kien sehh, u dana sabiex jigi diskreditat ir-rikorrent u jintefa dawl ikrah fuq l-operat tieghu.

Il-Qorti hija dejjem propensa sabiex tiddefendi d-dritt taċ-ċittadin illi jsemmi leħnu u jilmenta dwar servizzi lilu resi, izda huwa necessarju illi meta tali ilmenti jigu magħmulha, il-qarrej ordinarju jinghata stampa kompleta u fidila ta' dak kollu illi attwalment sar u mhux jinghata biss informazzjoni bil-pezzi u bukkuni bil-ghan illi jigi influwenzat b'mod intenzjonali. Meta jsiru tali omissjonijiet, ikun car illi l-kittieb qiegħed jipprova iqarraq bil-qarrej u jaghmel hsara lill persuni minnu imsemmija u ghalhekk din il-Qorti ma tistax tikkondona tali agir u ikollha tikkundannahom peress illi, fl-ahhar mill-ahhar, il-Qorti m'hijiex qieghda hemm sabiex tipprotegi biss id-dritt ta' l-espressjoni, izda hija hemm ukoll sabiex tipprotegi r-reputazjoni tal-persuna li tigi akkuzata fuq fatti minghajr ma jigi lilu moghti l-possibilta' li jirribatti l-allegazzjonjiet, jew tramite kummenti tieghu stess, jew inkella tramite esposizzjoni fidila u imparzjali tal-fatti kollha kif graw.

Fil-kaz odjern dana ma sarx u ghalhekk il-Qorti tqis illi l-kliem adoperati kif fuq spejgat kienu malafamanti u d-difiza tal-fair comment ma tregix.

Konkluzjoni.

Il-Qorti

Wara illi rat il-provi kollha prodotti quddiemha u semghet ix-xhieda kollha filwaqt illi fehmet ic-cirkostanzi kollha tal-kaz,

Taqta u Tiddeciedi billi

Fl-ewwel lok tichad l-eccezzjonijiet kollha ta' l-intimati u billi

Fit-tieni lok tilqa' t-talbiet rikorrenti u tiddikjara illi l-pubblikazzjoni meritu tal-kawza odjerna hi libelluza u malafamanti fil-konfront tar-rikorrent u li tesponih ghad-disprezz u r-ridikolu tal-pubbliku u ghalhekk

Tikkundanna lill-konvenuta Joanne Pullicino ihallas lir-rikorrent is-somma ta’ hames mitt Euro (€500) filwaqt illi tikkundanna lill-konvenut Matthew Vella ihallas lir-rikorrent is-somma ta mitt Euro (€100) u dana bhala danni likwidati ghal malafama b’applikazzjoni ta’ l-artikolu 28 tal-Ligi ta’ l-Istampa (Kap 248 tal- Ligijiet ta’ Malta);

Spejjez kollha kontra l-intimat Joanna Pullicino

< Sentenza Finali >

--------------------------------TMIEM--------------------------------