Qorti tal-Magistrati (Ghawdex) Bhala Qorti ta' Gudikatura Kriminali .

Magistrat : Dr. Paul Coppini LL.D.

Seduta ta' nhar il-Gimgha 7 ta' Settembru, 2001 .

Kumpilazzjoni Numru : 74/1999 .

Il-Pulizija
(Spettur Paul Vassallo)

vs

Carmel Buttigieg, ta' 37 sena, bin il-mejjet Anthony u Josephine xebba Buttigieg, I.D. 3061G, ta' 4, Triq il-Palma, Ghajnsielem, Ghawdex .

Il-Qorti ,

Rat l-imputazzjoni li biha Carmel Buttigieg gie akkuzat talli fit-18 ta' Frar 1999 ghall-habta ta' xi s-sebgha u nofs ta' filghaxija (7.30 p.m.), fi Triq Palma, Ghajnsielem, Ghawdex, minghajr il-hsieb li joqtol jew li jqieghed il-hajja ta' haddiehor f'periklu car, ikkaguna feriti ta' natura gravi fuq il-persuna ta' Gilbert Turner minn Ghajnsielem, skond ma ccertifika Dr. Julius Kvas M.D. ta' l-Isptar Generali ta' Ghawdex .

Rat il-verbali tax-xhieda kollha mismugha .

Rat id-dokumenti esebiti .

Rat l-att tar-rinviju ta' l-Avukat Generali tas-17 ta' Novembru 2000, fejn, billi deherlu illi mill-kumpilazzjoni f'dan il-kaz tista' tinstab htija (jew htijiet) taht dak li hemm mahsub fl-artikoli 214, 216 tal-Kodici Kriminali, ddecieda illi kif hemm mahsub fl-artiklu 370(3)(b) u (c) tal-Kodici Kriminali, jibghat lill-imputat biex jigi gudikat minn din il-Qorti fin-nuqqas ta' oggezzjoni ta' l-istess imputat .

Semghet lill-imputat jghid fl-udjenza tas-6 ta' Frar 2001 li ma jsib ebda oggezzjoni li din il-kawza tkompli tinstema u inqata' minn din il-Qorti bhala Qorti ta' Gudikatura Kriminali .

Semghet lill-istess imputat jixhed .

Semghet it-trattazzjoni tad-difensur ta' l-imputat .

Ikkunsidrat :

Illi mill-provi prodotti rrizulta illi dakinhar tat-18 ta' Frar 1999 ghall-habta tas-sebgha u nofs ta' filghaxija (7.30 p.m.),waqt li kien fil-kumpanija ta' certu Guzepp Vella, rcieva messagg fuq il-mobile phone tieghu li kienet daqqitlu l-burglar alarm li kellu nstallata fir-residenza tieghu . Allura telaq minnufih biex jara' x'kien gara u fl-isqaq ta' quddiem id-dar tieghu jilmah lill-gar tieghu Gilbert Turner jilmenta li dan kien qed jigri ta' sikwit u l-imputat kellu bzonn jara x'kienet ir-raguni ghaliex kien qed jigri hekk . L-imputat baqa' diehel id-dar u wara li kkontrolla li kollox kien f'postu u tefa' l-alarm, rega' hareg mid-dar . Hawnhekk sehh l-incident li fih safa mwegga' l-imsemmi Gilbert Turner u li ghalieh qed jigi akkuzat l-imputat . Fi kliem l-istess Turner : "*… So, he went into his gate* (b'referenza ghall-imputat), *switched the alarm off, came outside, and he was bending by the side of the gate, a sort of lock it or something or other, and he said to me,'Why don't you go back to England?" And then said, "I will make you go". So he was doing this, he rushed at me, he raised his right arm, and he hit me with something . He hit me with something, and it hit me on the side of the head, on the left hand side of the head, and I was, I can remember starting to fall, and then I don't remember anything else at all; until I recovered consciousness on the table of the X-Ray room, in the Hospital, about three hours later*". (fol. 22-23 tal-process) .

L-imputat innifsu xejn ma kien daqstant preciz dwar l-istess incident. Mistoqsi jispjega x'gara mid-difensur tieghu, Buttigieg qal illi kif kien tiela' l-isqaq biex jidhol id-dar halli jitfi l-alarm, Turner kien barra jghajjat . Dak il-hin huwa ma kelmux u "*Kif hrigt mill-bieb qbadt jien u dort biex immur ghall-karozza . Ghedt, ahjar ma nkellmu xejn lil dan …. kif mort hu kien qieghed fl-art hux, daqshekk … Imbagahd mort nara x'ghandu u m'ghandux …. qalli 'leave me alone, leave me alone'. Sewwa ghidtlu, 'alright' … harget il-mara tieghu, qaltli tinkwetax … issa incempel, nara x'ghandu jien' u qbadt, mort go l-karozza u mort ghand Guzepp ta' Vella nerga'." (fol. 133-135 tal-process)* . Huwa mbaghad ipprova jispjega kif Turner seta' tfixkel f'xi gebla li kien ihalli fl-isqaq biex ipoggi wara r-roti tal-korozza tieghu, billi dan kien ghat-telgha. Fl-istqarrija li rrilaxxja lil Pulizija (Dok. PV. 2a fol. 18), l-imputat bejn wiehed u iehor ta l-istess verzjoni .

Valerie Turner ma ratx l-incident 'de quo' isehh, ghax kienet ghadha gewwa d-dar taghha, u harget biss x'hin semghet l-ghajjat . Hija spjegat ix-xena li fiha sabet lil zewgha bil-mod segwenti :

"And I went outside aand I found my husband laid on the ground outside our garage door . There was blood on the ground, and he was bleeding from his head .

And Mr. Buttigieg came out of his house, and I said to him 'what have you done ? Have you hit him ?' And he said 'He is alright, he is alright'. And he

went to move him, to get him up on his feet . He was unconscious, my husband didn't speak to me .

***And I said 'No, don't touch him'. I have done first aid courses for years, and I know that if someone is unconscious you don't move them. I said I am going to ring for the ambulance*" (fol. 45-46 tal-process) .**

Il-mod dettaljat ta' kif Gilbert Turner ddeskriva l-aggressjoni li saret fuqu, kif kontrastat ma' l-ispjegazzjoni piuttost vaga, jekk mhux ukoll verosimili ta' l-imputat, partikolarment meta jikkontendi li kellem lil Turner wara li waqa' fl-art, meta rrizulta, u dan anke gie korroborat mit-tobba li ezaminawh l-isptar u s-surgent li mar immedjatament fuq il-post, li dan dam mitluf minn sensieh ghal xi tliet sighat, jaghmlu l-verzjoni ta' l-istess Gilbert Turner ferm aktar kredibbli, u l-Qorti ma ssib ebda raguni ghaliex m'ghandhiex temmnu li l-incident tassew gara bil-mod minnu deskritt u li huwa gie aggredit mill-imputat .

Ghalkemm l-akkuza tirrigwarda feriti ta' natura gravi, u dana minhabba c-certifikat mediku rilaxxjat mill-kirurgu Dr. Julius Kvas li ezamina lil Turner fl-isptar Generali ta' Ghawdex, (Dok. PV. 1), irrizulta mix-xhieda ta' l-istess kirurgu illi ghalkemm meta Turner iddahhal l-isptar dakinhar tat-18 ta' Frar 1999, instab illi kellu "a depressed fracture of the skull, particularly the frontal bone, and bruises over left elbow and a left ankle" (ara ukoll ritratti esebiti bhala Dokti. GT. 1 sa GT. 9), meta rega' gie ezaminat wara xi tliet gimghat, "… we didn't find any significant pathology" u "he was fully recovered" (fol. 114-115) . Minkejja illi l-istess kirurgu ipprova jixhed xi dubbju fuq xi effetti permanenti fuq il-mohh li setghet halliet il-ferita tar-ras ta' l-aggredit, l-espert mediku li gie nominat mill-Qorti fuq talba ta' l-istess imputat, Dr. Lawrence Zrinzo, baqa' qatt ma ezamina lil Gilbert Turner ghax dan sadanittant lahaq siefer ghal kollox minn dawn il-gzejjer . Ghalhekk l-allegazzjoni ta' ferita gravi zgur li f'dawn ic-cirkostanzi ma tirrizultax .

Il-Qorti ghaldaqstant, u wara li rat l-artikolu 221 tal-Kap. 9, issib lill-imputat hati li kkaguna fertiti hfief fuq il-persuna ta' Gilbert Turner . Wara li rat ukoll il-fedina penali ta' l-impuat (Dok. PV. 3) li hija prattikament netta, ghajr ghal xi nuqqas dwar permessi tal-bini, u l-art. 9 tal-Kap. 152, u peress illi fil-fehma taghha piena karcerarja jew multa mhux konsiljabbli ghall-kaz, tillibera lill-imputat bil-kondizzjoni li ma jaghmilx reat iehor fi zmien sena mill-lum .

(ft) Paul Coppini
Magistrat .
(ft) Francis Attard
Deputat Registratur .

Vera Kopja

Ghar-Registratur .

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