



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

**MAGISTRATE DR.  
NEVILLE CAMILLERI**

Sitting of the 17<sup>th</sup> September, 2013

Number. 543/2012

**Police  
(Inspector Frank Anthony Tabone)**

**vs.**

**Jeanette Louise Lightfoot**

**Case Number 543/2012**

**Today 17<sup>th</sup> September 2013**

The Court,

Having seen the charge brought against **Jeanette Louise Lightfoot**, born on the 12<sup>th</sup>. March 1951, residing at Camilleri Flats, Flat 2, Triq il-Qolla s-Safra, Marsalforn, Gozo, holder of Maltese Identity Card Number 33023(A), charged with having during the months and days before

the 16<sup>th</sup> March 2012 at the residence 'Dar Miriam',  
Carolina Cauchi Street, Victoria, Gozo:

1. through imprudence and negligence, involuntarily  
caused damages or spoil to the detriment of Miriam and  
Victor Camilleri.

In case of conviction the Court was humbly requested to  
order accused to make good for the damages caused.

Having seen all the acts, including documents and  
photographs, forming part of the proceedings.

Having heard the witnesses brought forward by the  
Prosecution and by the injured parties.

Having heard the accused give evidence and having  
heard the witness brought forward by her.

Having heard submissions.

### **Considers**

That, it transpires from the Acts of the Case, that the  
injured parties used to rent a residence bearing the name  
'Dar Miriam' and situated at Carolina Cauchi Street,  
Victoria, Gozo, to the accused for a period of time. The  
injured parties allege that the accused caused several  
damages to the mentioned residence and they want the  
accused to pay for all the damages caused by her. From  
her part, the accused denies causing the several  
damages listed by the injured parties except for outlining  
how the mosquito nets were torn<sup>1</sup> and what led to a rip in  
a net curtain<sup>2</sup>.

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<sup>1</sup> "I think my cats probably did that, yes" (Sitting of the 7<sup>th</sup>. May 2013). Then the  
accused confirms that she agreed to pay for the mosquito nets.

<sup>2</sup> "There was a net curtain at one point during the summer blew out of the French doors  
and got caught on the hook on the wall outside. I disconnected it and brought it in and I  
believe there was a rip about two inches long" (Sitting of the 7<sup>th</sup>. May 2013).

That the Court heard all the witnesses brought forward in this case, including the testimonies of Miriam Camilleri and her husband Victor Camilleri and also of the accused and her partner Manuel Mercieca. A number of receipts and a substantial amount of photographs were exhibited by the witnesses brought forward by the Prosecution during the course of these proceedings.

### **Considers**

That the relevant section of the Criminal Code in this case is Section 328(d) of Chapter 9 of the Laws of Malta which states the following:

“Whosoever, through imprudence, negligence or unskilfulness in his trade or profession, or through non-observance of any regulation, shall cause any fire or any damage, spoil or injury as mentioned in this sub-title, shall, on conviction, be liable –

[...]

(d) in any other case, to imprisonment for a term not exceeding three months or to a fine (*multa*) or to the punishments established for contraventions:

Provided that in the cases referred to in paragraph (d), except where damage is caused to public property, other than a motor vehicle, proceedings may be instituted only on the complaint of the injured party”.

It is evident that, as required by the proviso of Article 328(d) quoted above, the complaint of the injured party is required in these proceedings. The Court notes that the defence was correct in pointing out during its final submissions that no complaint of the injured party had been exhibited in the acts of these proceedings.

Yet, reference has to be made to Section 373 of Chapter 9 of the Laws of Malta which states the following:

“As regards offences referred to in Article 370(1), the prosecution shall lie with the injured party or with the persons mentioned in Article 542 on behalf of such party, where proceedings cannot be instituted except on the complaint of the injured party:

**Provided that if the offence in respect of which no prosecution may be instituted except on the complaint of the injured party, is aggravated by public violence or is accompanied with any other offence affecting public order, or if, in the absence of any such circumstances, the injured party shall fail to institute proceedings and shall not have expressly waived the right to prosecute within four days from the commission of the offence, it shall be lawful for the Executive Police *ex officio* to institute proceedings in respect of the offence”. [emphasis added]**

Hence it is evident that since the injured party did not waive the right to prosecute, it is lawful for the Executive Police to institute proceedings in respect of the offence.

### **Considers**

That the Court is not satisfied as to the state of the premises in question prior to the rent agreement. This does not result from the Acts of the Case. Even when Architect Emanuel Vella, who inspected the premises in question on the day it was vacated by the accused, was asked if he could assess whether the damages complained by the injured parties were caused in the previous two years or before, he replied that he could not make such an assessment.

That although several receipts were presented by the Prosecution and by the injured party these were not confirmed on oath by the persons issuing them and hence the Court is not satisfied whether the works indicated in the receipts were actually carried out in the premises in question or not.

### **Considers**

That, from what results from the Acts of the Case and from has been said above, the Court is satisfied that the charge brought against the accused has been proven **only** vis-à-vis the mosquito nets and the net curtain referred to earlier. As regards the other damages referred to by the injured parties, the Court notes that it has not been sufficiently proven that these were involuntarily caused by the accused through imprudence and negligence.

With regards to the punishment to be inflicted against the accused, the Court will be taking into consideration various factors, including: the nature of the charge brought against the accused and what has been outlined in the previous paragraph. In the circumstances, the Court notes that the adequate punishment to be inflicted against the accused should be one of those established for contraventions.

Therefore, the Court, after having seen and considered Section 328(d) of Chapter 9 of the Laws of Malta, finds the accused guilty of the charge brought against her and condemns her to a fine (*ammenda*) of fifty Euros (€50.00).

**< Final Judgement >**

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