



COURT OF CRIMINAL APPEAL

**THE HON. MR. JUSTICE
LAWRENCE QUINTANO**

Sitting of the 25th October, 2013

Criminal Appeal Number. 500/2011

**The Police
(Insp. Therese Sciberras)**

Vs

**Isaac Unigwe
[holder of identity card number 25514 (A)]**

The Court,

Having seen the application filed by Paula Antonia Meli on the 30th September, 2011.

Having seen that respondent was finally served with the application on the 13th October 2011.

Having seen the judgement delivered by the Court of Magistrates (Malta) as a Court of Criminal Judicature on the 21st November, 2011, by which, the Court, after having seen Articles 28A and 28H of Chapter 9 of the

Laws of Malta ordered that the judgement given on the 24th February 2011 in respect of the respondent Isaac Unigwe be brought into effect.

Having seen the application of appeal filed by appellant on the 1st December, 2011, wherein he requested this Court to revoke the judgement of the First Court of the 21st November, 2011 whereby the judgement of same Court of the 24th February 2011 was brought into effect, vary the judgement of the First Court of the 24th February 2011 in the sense that it confirms the part where applicant was found guilty of all charges brought against him, revokes the part concerning punishment and the compensation order and instead applies a less severe sanction and a compensation order which would be just and fitting to the circumstances of the case.

Having seen the records of the case.

That the grounds of appeal of appellant consist of the following:-

i. That the term of imprisonment imposed by the First Court in its first judgement was an excessive one given the particular circumstances of this case and this as will result in the course of oral pleadings.

ii. That the compensation order made by the First Court in its first judgement was unjust in view of the fact that applicant was ordered to pay to full value of his wife's vehicle as this was declared beyond economical repair by his wife's surveyor, yet his wife kept the same vehicle which she subsequently sold notwithstanding that from the civil perspective this was to become the property of applicant as is the practice and the legal obligation in these kind of situations. Thus it so happened that by virtue of the compensation order awarded by the first Court, applicant's wife was going to be paid twice for the same she sustained. Consequently the second judgement of the first Court in these proceedings was unjust and should be revoked. It is to be pointed out that applicant had offered a payment of two thousand Euros

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on account of payment which were, however, turned down.

Has considered

Having heard the submissions made by the parties about the negotiations between the appellant and the victim of the crime to settle the outstanding debt (14th January 2013 and 21st may 2013).

In so far as appellant is asking for any variation of any part of the judgement delivered on the 24th February 2011, this request is entirely out of the time limit which the law lays down to file an appeal from a judgement delivered by the Court of Magistrates sitting in its criminal jurisdiction. In fact, the appellant filed the application on the 1st December 2011 which is definitely more than the eight working days laid down by the Criminal Code. The fact that the Court of Magistrates brought the February judgement into effect on the 21st November 2011 does not mean that the law gives the appellant a new time limit for an appeal on the original judgment. Hence the Court is rejecting this appeal as being out of time as far as the application refers to the judgment of 24th February 2011.

Moreover, according to section 28I no appeal shall be permitted on any of the following matters:

‘28I (c) any direction entered under 28H for the making of restitution or the payment of compensation, the length of the time-limit fixed for the making of such restitution or the payment of such compensation under sub-article 2 of that article, or the amount of compensation payable under subarticle (3) of that article.’

Hence the Court is also rejecting the appeal application because of the provisions of 28I (c) of Chapter 9.

The Court further notes that according to subsection (5) of section 28 H, the Court can only give a peremptory period not exceeding one month so that the person found guilty

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can comply with an order under 28H. This period of one month elapsed a long time ago and, in any case, was not given by the Court of Magistrates.

Conclusion

The Court decides to reject the appeal which was filed on the 1st December 2011 and to confirm the decree delivered by the Court of Magistrates on the 21st November, 2011 which brought the judgment of the 24th February 2011 into effect.

< Final Judgement >

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