

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

MAGISTRATE DR MIRIAM HAYMAN LL. D.

Case 781/99

**The Police
(Sp. Joseph Mercieca)**

vs

**Aleksic Nenad 25 years, son of Bozidar
And Resavka born in Jugoslavia on the
7th July, 1974 presently residing at “Sea
View Hotel” Qawra, holder of ID no.
2118A.**

Today 21st May, 2002.

The Court,

Has seen the accusation charge against the abovementioned Aleksic Nenad whereby he was accused of having on the night of the 25/25th October, 1999 at about 2.30 a.m. at the Monavale Bar, Triq il-Halel, Bugibba, caused injuries of a grievous nature on the person of Francis Mifsud in terms of Section 216 of the Criminal Code.

Having seen the consent of the Attorney General that the case be tried summarily.

Having seen that the accused had no objection to the case being tried summarily.

Having seen all the acts of the case.

Having heard the evidence.

Having heard oral submissions.

Considers,

That the victim Francis Mifsud testified in Court about the alleged beatings he received at the hands of the accused Aleksic Nenad. Salient is the fact that he recounted that Nenad persistently attacked him for three consecutive, separate occasions. These attacks according to victim, occurred when present at the bar, all be it outside, there were still people enjoying their drinks.

Oddly enough two medical certificates were presented, Dok MV dated 25/10/99 and Dok FM dated 12.11.99. The first document speaks of slight injuries save complications and the second of a fracture of distal bone. Dr Micallef Stafrace described this injury as grievous.

More odd is the fact that in the first certificate no mention is made of Mr Mifsud's fracture, strange also is the fact that Prosecution failed to bring forward any witnesses that were present during the alleged tiff.

The accused chose to give evidence under oath. Although accused admitted to buy a drink before entering accused's bar, but he alleged that it was the accused who initiated the fight.

Stranger still is the fact that the photos exhibited by accused Dok FM1, Dok FM2 a fol 28, were taken according to accused, the day after the accident. In the same photos, Mifsud is seen in a plaster cast. However, the said fracture was not determined in the medical examination conducted by Dr Mario Vella the same day of the accident. This has caused a certain amount of perplexity with regards to the actual injuries sustained by the accused. Furthermore, the position remained, after victim's examination in chief, that he could not be cross examined because it resulted from Prosecuting Officer's report that Francis Mifsud has left or absconded from these islands.

Considers that the facts as above exposed cast a doubt on the veracity of the facts, that is as to whether Francis Mifsud actually suffered the grievous injuries alleged, thus on the legal maxim in dubio pro reo, the Court acquits the accused.

Magistrate Dr Miriam Hayman LL. D.

