



MALTA

COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE
MAGISTRATE DR.
NEVILLE CAMILLERI

Sitting of the 11 th December, 2014

Number 231/2014

The Police
(Inspector Daryl Borg)

vs.

Jammeh Ansu

The Court,

Having seen the charges¹ brought against **Jammeh Ansu**, son of Ibrahim and Allagigu neé Sonem, born in Gambia on the 10th of April 1985 and residing in an unknown address in Zejtun and holder of Identity Card Number 9000200A, charged with having on the 21st June 2014 between 03:00hrs and 04:00hrs whilst in Floriana and on these Islands:

1. committed slight bodily harm to the detriment of Joseph Bugeja as certified by Dr. C. Mercieca M.D. from Floriana Health Centre in breach of Article 221 of Chapter 9 of the Laws of Malta;
2. willfully committed any spoil, damage or injury to or upon movable or immovable property, residence door situated at Block 6, Apartment 16, St. Publius Road, Floriana, to the detriment of Joseph Bugeja and/or any other person/s which damage does not exceed the amount of €23.29 in breach of Article 325(c) of Chapter 9 of the Laws of Malta;
3. committed a violation of another person's property to the prejudice of Joseph Bugeja and/or any other person/s breach of Article 340(d) of Chapter 9 of the Laws of Malta;
4. wilfully disturbed the public good order or the public peace in breach of Article 338(m) of Chapter 9 of the Laws of Malta.

The Court was requested, on reasonable grounds, for the purpose of providing for the safety of Joseph Bugeja or for the keeping of the public peace or for the purpose of protecting the injured person or other individuals from harassment or other conduct which will cause a fear of violence.

¹ *a fol. 5.*

Having seen the documents exhibited and all the acts of the proceedings.

Having heard all the witnesses brought forward by the Prosecution.

Having seen that the accused chose not to testify and having heard that he did not have any evidence to bring forward.

Having heard that, during the sitting of the 6th. November 2014 (*a fol.* 49), the Prosecution remitted itself to the acts of these proceedings and having heard the accused inform the Court that the Court could proceed to deliver its judgment.

Considers

That, in her affidavit, **WPS 217 Alison Formosa** (Doc. "DB 6" - *a fol.* 27 *et seq.*), Formosa stated that when she, together with PC 322 Ronnie Azzopardi and PC 1024 J. Rizzo, went onsite in Floriana she saw a dark skinned male, bearing the details of the accused, who was pointing a metal rasp in their direction. She says that they immediately controlled the situation and took the man in custody. She also says that she noticed that the main door of the injured party's apartment was broken open and damaged.

That, in their affidavits, **PC 322 Ronnie Azzopardi** (Doc. "DB 7" - *a fol.* 31) and **PC 1024 J. Rizzo** (Doc. "DB 8" - *a fol.* 32),

Azzopardi and Rizzo testified on the same lines of WPS 217 Formosa.

That, during the sitting of the 3rd. of July 2014, **Joseph Bugeja** gave his testimony (*a fol. 33 et seq.*) testifying that on the 21st. June 2014 at about 3.30am he was asleep in his house situated in Floriana and that accused entered his house. He says: "*Qabadni minn ghonqi u kaxkarni t-tarag kollu*" (*a fol. 33*). He also says that the accused did not speak to him and that he (Bugeja) started shouting for help. He says that the accused managed to get access to his house by damaging his main door which he now managed to fix. He says that he paid nothing for the fixing of the door since a friend of his fixed it for him. He also explains that he went to the Police Station and was eventually sent to the polyclinic since he was injured in his left arm and his left eye.

That, during the sitting of the 25th. of September 2014, **Dr. Marija Axiak** gave her testimony (*a fol. 44 et seq.*) testifying that she had seen the accused for the first time on the 11th. July 2014 when the accused was admitted to the forensic unit at Mount Carmel Hospital. She says that the accused was admitted because he was noticed to be exhibiting bizarre behaviour in prison further saying that on detailed mental assessment it was very clear that he was suffering from a paranoid psychosis. She says that after the accused was administered treatment he was eventually discharged and on the 26th. July 2014 was sent back to prison. She also says that in May 2014 the accused had been admitted once to Mount Carmel Hospital as an outpatient after his friends noticed that he was exhibiting bizarre behaviour. She says that from May 2014 till 13th. June 2014 the accused was refusing treatment and eventually on the 17th. June 2014 was discharged without any treatment and without any follow up. She further says: "*If I'm not mistaken this case happened around*

about a few days perhaps after this 21st. of June, so hence I contacted the Inspector and informed that there could be a possibility that at the time of the alleged crime he was mentally unwell basically” (a fol. 44).

That, during the sitting of the 9th. of October 2014, **Dr. Christopher Mercieca** gave his testimony (*a fol. 47*) testifying that on the 21st. June 2014 at 4.30am he examined Joseph Bugeja. Whilst confirming that the medical certificate marked as Doc. “DB 5” (*a fol. 26*) was issued by him, he also confirmed the contents of the said medical certificate.

Considers

That in the statement (Doc. “DB 2” – *a fol. 20 et seq.*)² released by the accused to the Prosecuting Officer, which statement was released after the accused was given the right to consult a lawyer and he refused, when the accused was asked whether he knew why he was arrested, he replied in the negative. The accused confirmed that on the 21st. June 2014 at 3.30hrs he entered the injured party’s residence in Floriana but says that he assaulted no one. He says: *“Since I don’t have anywhere to sleep I decided to go into this residence situated at Floriana since I saw there wasn’t any activity inside and thought the place was abandoned” (a fol. 21).* He knows nothing about the injuries sustained by the injured party. He also says that he did not break the door of the injured party’s residence but says that he found it open.

² This document is the same document as the one found *a fol. 8 et seq.*.

Considers

That the accused is being charged with four different charges, which charges will be dealt with separately.

The First Charge

(Slight Bodily Harm):

That Dr. Christopher Mercieca confirmed the contents of his medical certificate (Doc. "DB 5" - *a fol.* 26) in which he noted that the injured party suffered slight injuries. The Court notes that there is no doubt whatsoever that it was the accused who managed to gain access to the injured party's household and who committed slight injuries on the said injured party. The injured party himself recognised and identified the accused in the court hall as the person who did all this. Apart from this, even the police officers who went on site, that is WPS 217 Alison Formosa, PC 322 Ronnie Azzopardi and PC 1024 J. Rizzo, gave the details of the accused as the person whom they found there with a rasp in his hand. On his part, in his statement (Doc. "DB 2" - *a fol.* 20 *et seq.*), the accused confirms that on the day in question he entered the injured party's residence but denies assaulting anyone. The accused is not credible when he says that he assaulted no-one.

Hence, after outlining the above, the Court notes that the first charge brought against the accused has been sufficiently proven and consequently the accused will be found guilty of the said charge.

The Second Charge

(Voluntary Damages):

That the accused is also accused of wilfully damaging the residence door of the injured party. The Court notes that the injured party testifies that the accused managed to get access to his house by damaging his main door. In their affidavits both WPS 217 Alison Formosa and PC 1024 J. Rizzo noted that the main door of the injured party's apartment was broken open and damaged. On his part, the injured party testifies that he managed to fix his main door and says also that he paid nothing for the fixing since a friend of his did it for him. Hence, the Court whilst noting that it has been amply proven that the accused voluntarily damaged the main door of the injured party's residence, since the amount of the damages was not ascertained, the accused will be found guilty under Section 325 (1)(d) of Chapter 9 of the Laws of Malta.

The Third Charge

(Violation of Another Person's Property):

That there is no doubt whatsoever that this charges has been amply proven and hence the accused will be found guilty of the said charge.

The Fourth Charge

(Disturbance of the Public Good Order or the Public Peace)

That although under the fourth charge the accused is charged with having wilfully disturbed the public good order or the public peace, which emanates from Article 338(dd) of Chapter 9 of the Laws of Malta, in the charge sheet reference is made to Section 338(m) of Chapter 9. Despite this, it is clearly evident

that, as a consequence of his actions, the accused should be found guilty of disturbing the public good order or the public peace. Hence the accused will be found guilty of the fourth charge brought against him.

Considers

That all the charges brought against the accused have been sufficiently proven and hence the accused will be found guilty of all the charges brought against him.

As regards the punishment to be inflicted, the Court will be taking into consideration various factors, including: the nature of the charges brought against the accused, the clean conviction sheet of the accused (Doc. "DB 4" - *a fol.* 25), and the testimony of Dr. Marija Axiak.

Therefore, the Court, after having seen Articles 221(1), 325(1)(d), 338(dd) and 340(d) of Chapter 9 of the Laws of Malta, finds the accused Jammeh Ansu guilty of all the charges brought against him and condemns him to a period of three (3) months imprisonment however, since the Court is of the opinion that there are sufficient reasons which warrant that the said term of imprisonment be suspended, in terms of Section 28A of Chapter 9 of the Laws of Malta, suspends the said term of three (3) months imprisonment for a period of one (1) year from date of this judgment.

In terms of Section 28A(4) of Chapter 9 of the Laws of Malta the Court has explained to the accused in plain language his liability under Section 28B of Chapter 9 of the Laws of Malta if

during the operational period he commits an offence punishable with imprisonment.

Finally, after having seen Section 383 of Chapter 9 of the Laws of Malta, the Court binds the accused to hold the peace with Joseph Bugeja under a penalty of one thousand and five hundred Euros (€ 1500) for a period of one year from today.

< Final Judgement >

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