



MALTA

COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE
MAGISTRATE
AARON BUGEJA

Sitting of the 23 rd January, 2015

Number. 72/2015

The Police

(Inspector Elton Taliana)

vs

Omissis and Lindberg Dante Alexander

The Court after seeing the charges in respect of Omissis and Lindberg Dante Alexander, 19 years of age, of Swedish nationality, son of Mohammed and Anna nee' Lindberg, born in Sweden on the 15th March 1995 and residing at 11,

Eljon, Triq Sant Antnin Msida holder of passaport number 86437970 where by they were charged with having in these islands on the 25th September, 2014 at around 04,00 hrs in St. Julians or in the vicinity:-

1. Without the intent to kill or to put the life in manifest jeopardy, caused grievous bodily harm on the persons of Thomasz Okon and Barquilla Izquierdo, Julio Alberto (Art. 218 Chapter 9 of the laws of Malta).
2. on the same date, time, place and circumstances with the intent to commit a crime hence to commit wilful grievous bodily harm on the persons of Thomasz Okon and Barquilla Izquierdo, Julio Alberto manifested such intent by overt acts which was following by a commencement of the crime, which crime was not completed in consequence of some accidental cause independent of the will of the accused. (Art. 41(1)(a), 216, 218 Chapter 9 of the Laws of Malta)
3. on the same date, time, place and circumstances took part in an accidental affray and caused bodily harm on the person of Thomasz Okon and Barquilla Izquierdo, Julio Alberto (Art. 237(b)(c)(D) Chapter 9 of the Laws of Malta).
4. on the same date, time, place and circumstances provoked a tumult or an affray for the purpose of committing a homicide or a bodily harm to the detriment of Thomasz

Okon and Barquilla Izquierdo, Julio Aberto (Art. 238(b) Chapter 9 of the Laws of Malta)

5. on the same date, time, place, and circumstances wilfully disturbed the public peace and order (Art. 338(dd) of Chapter 9 of the Laws of Malta).

Having seen that on the 26th September 2014 the Prosecuting Officer read and confirmed the charges on oath;

Having seen that during the examination of the accused in terms of Article 390 and 392 of the Criminal Code both the accused, in reply to the question posed in terms of Article 392(1)(b) of the Criminal Code by the Court declared that they were not guilty;

Having seen that during the sitting of the 20th January 2015 the accused Lindberg declared that he was guilty as charged.

Having seen the request of the Prosecuting Officer in order for the Court to order that, in view of this declaration, the case of Lindberg Dante Alexander be continued and determined separately from that of Omissis and so

requested separation of their respective criminal proceedings;

Having seen that in view of this declaration of accused Lindberg, the Court warned the said accused in the most solemn manner about the consequences arising out of his guilty plea and granted him a reasonable time in order for him to retract his guilty plea. After a short while, the accused, after consulting with his legal counsel, reiterated that he was guilty as charged.

The Court, after having seen Article 392A(1)(2) of the Criminal Code, in the light of the said declaration by accused Lindberg :-

- (a) it became *ex lege* competent to proceed with the determination of the merits of this case and it consequently converted itself into a court of criminal judicature;
- (b) it acceded to the request of the Prosecution in order for the case of accused Lindberg to continue separately from that of accused Omissis;
- (c) it ordered to continuation of this case against accused Lindberg; and finally

(d)in view of this same declaration by accused Lindberg, duly reiterated, the Court had no option but to find the accused guilty as charged.

Having seen the records of the proceedings as well as the criminal record sheet of the accused.

Having heard the final oral submissions of the Prosecuting Officer and of the Legal Counsel to the accused, and in particular that in the case of accused Lindberg, given the lesser nature of his involvement in this case, his clean criminal record sheet, the fact that he was a first time offender and also that he had already been under preventive custody since the 25th September 2014 (almost four months) and his admission of guilt at a relatively early stage of the proceedings, the parties agreed that this Court could consider imposing a sentence of imprisonment in its suspended form.

Decide :-

Consequently, this Court, after having seen Articles 41(1)(a), 214, 216(1)(b), 218(1)(b), 237(b)(c)(d), 238(b), u 338(dd) of the Criminal Code finds the accused Lindberg Dante Alexander, upon his unconditional guilty plea, guilty as charged and condemns him to one year imprisonment; however having seen Article 28A of the Criminal Code it orders that the said sentence shall not take effect unless, during a period of four years from the date of this order, the offender commits another offence punishable with imprisonment and thereafter the competent court so orders under Article 28B of the Criminal Code that the original sentence shall take effect.

In terms of Article 28A(4) of the Criminal Code, the Court declares and explains in ordinary language to the accused his liability in terms of Article 28B of the Criminal Code if during the operational period he commits an offence punishable with imprisonment.

In terms of Article 392A(2) of the Criminal Code the Court orders that this judgment together with the record of the proceedings be transmitted to the Attorney General in terms of Law.

**Delivered today the 23rd January 2015 at the Courts of
Justice in Valletta, Malta.**

< Final Judgement >

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