



MALTA

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

**MAGISTRATE DR.  
DOREEN CLARKE**

Sitting of the 16 th February, 2015

Number. 1228/2014

**The Police  
(Inspector Edel Mary Camilleri)**

**VS**

**Hussen Abdi Rahman Hassan**

**Case Number: 1228/2014**

The Court,

Having seen the charges against:-

**Hussen Abdi Rahman Hassan**, 25 years old, son of Abdulrahman and Shuegi, born in Somalia on the 1<sup>st</sup> January 1989, residing at Marsa Open Centre, Marsa and holder of Identity Card number 62445(A) and Police Immigration number 07TT-029.

Charged with having:-

1. On the 13th December 2014, at around 17:30pm, inside Patri Felicjan Bilocca Street, Marsa, have reviled, or threatened, or caused a bodily harm to PS 830 Christopher Debono who is lawfully charged with a public duty, while in the act of discharging his duty or because of his having discharged such duty, or with intent to intimidate or unduly influence him in the discharge of such duty
2. Accused also on the same date, place, time and circumstances, assaulted or having resisted by violence or active force not amounting to public violence, any person lawfully charged with a public duty when in the execution of the law or of a lawful order issued by a competent authority.
3. Accused also on the same date, place, time and circumstances, have caused bodily harm deemed to be slight to PS 830 Christopher Debono as certified by Dr. Matthew Bonello of Mater Dei Hospital.
4. Accused also on the same date, place, time and circumstances he had disobeyed the lawful orders of any authority or of any person, by PS 830 Christopher Debono entrusted with a public service, or hindered or obstructed such person in the exercise of his duties, or otherwise unduly interfered with the exercise of such duties, either by preventing other persons from doing what they are

- lawfully enjoined or allowed to do, or frustrating or undoing what has been lawfully done by other persons, or in any other manner.
5. Accused also on the same date, place, time and circumstances, even though in a state of intoxication, publicly uttered any obscene or indecent words, or made obscene acts or gestures.
  6. Accused also on the same date, place, time and circumstances he had wilfully disturbed the public good order or the public peace.
  7. Accused also on the same date, place, time and circumstances, in any public place or place open to the public, was found drunk and incapable of taking care of himself.

Having seen sections 95, 96, 221, 222, 338(bb)(dd)(ee)(ff) of Chapter 9 of the Laws of Malta.

Having seen the consent of the Attorney General for this case to be tried summarily, and that the accused had no objection to the case being so tried.

Having heard the evidence and the submissions of the parties.

Having seen the acts of the proceedings.

Having considered

The facts of this case relate to an incident which took place on the 13th December 2014 in Marsa when the police acted on a report that the accused was drunk and bothering people who happened to be in the street.

From the testimony of the police officer involved it appears that a woman went to the Marsa Police station to report that there was an african man

who was drunk, out in the street; that this person was being a nuisance; and that he was bothering and challenging anybody who came along his way.

The said Police Officer PS830 Christopher Debono explained to the Court that he went on site. When he approached the accused he ordered him to lower his voice and not to shout, but, rather than obey, the accused continued shouting and told the police officer to kill him; the accused also addressed the police officer as "you fucking police". PS830 asked the accused (who appeared to the police officer to be drunk) to throw away the carton (full of wine) and the glass out of which he was drinking in a bin but the accused refused; more than that he continued shouting and using abusive language. At that stage PS 830 managed to take the carton and glass from the accused and threw them away; he also asked the accused to go to the Police station with him but the accused refused and all efforts to lead the accused to the police station proved futile. At a point while PS830 was trying to lead the accused to the police station, the accused turned to punch PS830 so the police officer tried to handcuff him in order to be able to take him to the police station without further incidents; however the accused resisted the police officer. In the shuffle that ensued the police officer hurt his shoulder but he managed to handcuff the accused just as other police officers arrived on site to assist him. The accused was then taken to the police station where he refused to give his particulars. Soon after the accused was taken to the Floriana Health because he was vomiting; the accused was infact certified as suffering from the effects of intoxication.

The accused chose to testify before this Court. He admitted being drunk on the day in question and initially said that it was he who went to the police station and asked to be arrested but later on in his testimony he did concede that it was the police officer who went to look for him and that the police officer spoke to him about the things he had in his hands (the

carton and glass) and that the police officer took these and threw them away. The accused does not remember anything more than this.

Having considered further

From the evidence produced before this Court it clearly results that the accused was drunk in a public place, he was disturbing the public peace and he refused to obey legitimate orders given to him by the police.

It also clearly results that the accused insulted PS830 and, not only resisted PS830 when he was trying to arrest him, but also used active force (when he tried to punch him) which resulted in a shuffle in the course of which PS830 slightly injured his shoulder.

In these circumstances the Court is satisfied that all the charges brought against the accused have been sufficiently proven.

With regards the penalty to be meted out the Court took into consideration the nature of the offences of which the accused is being found guilty, his clean conviction sheet as well as the circumstances which led to this incident.

For these reasons the Court, after having seen sections 95, 96, 221, 222, 338(bb)(dd)(ee)(ff) of Chapter 9 of the Laws of Malta, finds defendant guilty of the charges brought against him and condemns him to six (6) months imprisonment which by application of section 28A of Chapter 9 of the Laws of Malta are being suspended for a period of eighteen months, and condemns him also to a fine of four thousand Euros (€4,000) which are to be paid within six months; in default of payment within the stipulated

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time the fine is to be converted to to one hundred and fifteen (115) days imprisonment.

**< Final Judgement >**

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