

24 ta' Guajju, 1961

Imħallief:—

Onor. Dr. W. Harding, C.B.E., K.M., B.Litt., LL.D.

Il-Pulzija

versus

George Tabone

**Riċettazzjoni — Element Intenzjonali.**

*L-element tar-"scienter" huwa meħtieġ għall-integrazzjoni tar-reat ta' riċettazzjoni. Dan l-element jista' firriżulta miċ-ċirkustanzi tal-każ partikulari; imma is-simpliċi suspett li jiġi fl-akkużati dwar il-provenjenza legittima jew le, tal-oġġett li jkun ser fixtri jew filqa', mingħajr ma jagħmel il-verifika meħtieġa dwar dik il-provenjenza, huwa prova biżżejjed tal-element intenzjonali ta' dan ir-reat.*

Il-Qorti:— Rat l-atti kompilati kontra George Tabone quadd'em il-Qorti Kriminali tal-Magistrati ta' Malta bħala Qorti Istrutturja, fuq l'imputazzjoni talli f'Każal Pawla n fi bħadijiet oħra f'dawn il-Gżejjer, f'dawn l-aħħar sitt xhur, xjentement laqa' għandu, jew xtara hwejjeġ mis-raqa li l-valur tagħhom hu iżied minn £3 iżda anqas minn £10; liema hwejjeġ kienu mehuda b'qerq jew akkwistati b'reat;

Rat in-nota tal-Attorney General tat-12 ta' April 1961. li b'ha l-imsemmija attijiet ġew miġgħuta lura lil dik il-

Qorti bhala Qorti ta' Gudikatura Kriminali, halli l-istess tiddecidi dwar htija ta' kompetenza taghha taht dak li hemm mahsub fl-art. 348(a) tal-Kodiċi Kriminali, b'riferenza ghall-art. 298 tal-Kodiċi Kriminali, u fil-Government Notice nru. 337 tal-1940, barra kull ċirkustanza oħra;

Rat is-sentenza tal-Qorti l-aħħar imsemmija tal-5 ta' Mejju 1961, li biha sabet lil George Tabone hati talli xjentement ijaqa' għandu u xtara kwantità ta' fliekken tal-halib misruqa, li l-valur taghhom ma jeccedix it-£3; liema halib kien gie akkwistat b'serq; u ordnat li l-imsemmi George Tabone jiġi liberat taht il-provvediment tal-art. 23(2) tal-Kodiċi Kriminali;

Rat ir-rikors li bih l-imputat appella, u talab li s-sentenza fuq imsemmija tiġi revokata u li hu jiġi dikjarat mhux hati;

Trattat l-appell.

Ikkunsidrat;

Din il-Qorti ma għandha xejn xi żżid utilment mal-motivi elaborati mill-Ewwel Qorti. L-element tax-"scienter", kif inhu mehtieg f'dan ir-reat, jirrizulta soddisfaċentement miċ-ċirkustanzi enumerati fis-sentenza appellata. Dawn iċ-ċirkustanzi evidentement ingeneraw suspett fl-istess appellant, li staqsa lill-bejjiġh jekk il-halib kienx misruq u ma staqsa xejn aktar. Imma kkuntenta bir-risposta, għal kollox insoddisfaċenti, tal-bejjiġh, li ċjoè dak il-halib kien "il-fdal mill-bejġh tal-halib". Qal Lord Hewart, fil-kawża "Evans v. Dell" (1937) 1 All Eng. L. Rep. 349, segwit mill-Imħallef Devlin in Roper v. Taylor Ltd. (1951, 2T.L.R. 284), "the respondent deliberately refrained from making enquiries the result of which he might not care to have". U Lord Summer qal (The Zamora, 1921, 1.A.C. at page 812 (p.C.) & All Eng Law Rep. 1950. pp. 365-366):— "On the other hand, a man is said not to know because he does not want to know, where the substance of the thing is borne in upon his mind with a conviction that full details or precise proofs might be dangerous, because they may embarrass his denials or com-

promise his protests. In such a case, he flatters himself that where ignorance is bliss it is folly to be wise; but there he is wrong, because he has been put upon notice, and his further ignorance is a mere affection and disguise”;

Jghid Glanville Williams, Crim. Law, Gen. Part. p. 41, p. 127, li f'każ simili “..... there is suspicion which the defendant deliberately omits to turn into certain knowledge. This is frequently expressed by saying that he shut his eyes to the fact, or that he was ‘wilfully blind’”;

L-istess awtur jghid (loc. cit.):— “On a charge of receiving it is sufficient that the accused believed the goods were stolen, i.e. probably stolen”;

Għal dawn ir-raġunijiet, u għal dawk tal-Ewwel Qorti, li huma adottati, din il-Qorti tiddeċidi;

Billi tirrespingi l-appell u tikkonferma s-sentenza appellata.

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