Office of the Director of Public Prosecutions for Florence

Submission Of Criminal Complaint

We the undersigned, Dr Giuliano MIGNINI, born in Perugia on 13 April 1950 and domiciled at the Office of the DPP for Perugia at No 22, Piazza Matteotti, Deputy Prosecutor-General at the Court of Appeal of Perugia, Deputy Inspector Monica NAPOLEONI, born in Rome on 1 November 1963, domiciled at Police Headquarters, No 21, Via del Tabacchificio, and Assistant Captain Lorena ZUGARINI, born in Perugia on 8 November 1963, domiciled at the same Police Headquarters, desire to place before this most Honourable Office, that which follows, making known thereby, via the expedience of exposition, a narration of the facts to be recounted in the third person:

As Deputy Public Prosecutor, at the time, Dr Giuliano MIGNINI, had been the lead in the proceedings no. 9066/07/21 RGNR relating to the homicide committed as against the young British student Meredith Kercher, to the calunnia as against Patrick Diya Lumumba and other offences related to the homicide. In practice, from the advice pursuant to Article 415 bis Criminal Procedure Code, Dr MIGNINI had been the magistrate who, on his own, had followed the investigations from the beginning concerning the serious crimes that occurred on the night of the 1st and 2nd of November 2007.

Later the same had been flanked at the preliminary hearing, in overseeing the investigative activity and at the trial at first instance, by his colleague Manuela Comodi, she also belonging to the Office of the DPP of Perugia.

This latter and Dr MIGNINI had then assisted, for these proceedings, the Prosecutor-General's Office of Perugia where they had represented the office of public prosecution together with Dr Giancarlo Costagliola, Deputy Prosecutor-General.

Dr Monica NAPOLEONI was, at the time, a member of the Flying Squad of the police district of Perugia and head of the Homicide Squad and Assistant Captain Lorena ZUGARINI was a member of the same Squad and had worked closely with Dr Napoleoni in the investigations relating to the Kercher case.

PREAMBLE

Last 16 May 2015, the undersigned had read the article entitled "Giustizia in Umbria: verità e apparenze" [Justice in Umbria: truth and appearances], signed by Alberto Laganà, who had interviewed one, and only one, of the defence lawyers in the proceedings, Advocate Luca Maori, from the Perugia Bar. The article, appearing in issue No. 3 for 2015 of the weekly magazine "Settegiorni Umbria. Attualità, Società, Economia, Politica, Cronache e Appuntamenti" [Umbria Week. News, Fashion, Economics, and Events], at p. 6 and following, is gravely defamatory towards all the magistrates, the Public Prosecutor's experts, the officers and agents of the Investigative Taskforce who had worked on the case, but above all with Dr MIGNINI, as will be shown in the following (see Annexure no. 1). And it is defamatory not only through the statements by Advocate Luca Maori, Mr Sollecito's defence counsel, but also by the article writer and, obviously, all this activates the specific liability of the responsible Editor Bruno Brunori, for the offence to which Article57 of the Criminal Code applies.

However, before dealing with the question, it appears necessary to highlight the circumstances, in fact and in law, left in the shadows by the interview and which render even more serious, frankly incomprehensible and above all without any justification on the basis of the complex course of proceedings, the defamatory statements contained in the article and the very grave and intolerable accusations launched with so much superficiality against the investigators and the 34 magistrates who had upheld the prosecution's case against the 11 who had doubted it.

This highlighting is essential for fully appreciating the gravity of the offending act which will be described further below and the knowing willingness of the authors of the fact to distort the real import of the facts for the purpose of defaming magistrates, members of the Police and in particular the Flying Squad of Perugia and the Scientific Police [Forensics] both local and national, and the Public Prosecutor's expert consultants who had only carried out their institutional duty.

First point: the two accused Knox and Sollecito had been arrested on the morning of 6 November 2007, under an arrest warrant issued by Dr MIGNINI, as the Public Prosecutor in charge, a decree promptly validated by the GIP Dr Claudia Matteini who had issued a precautionary custody order for imprisonment. The appeals of the suspects against this latter, as issued by the GIP on the request of the same Dr MIGNINI, had then been timely rejected by the Re-examination Court for Perugia and by the First Chamber of the Court of Cassation. As a consequence, *the two remained in a state of preventative imprisonment until the decision of the Court of Assizes Appeal Court presided over by Dr Pratillo Hellmann, that is for almost four years and there had never been, by their defence, any*

application of revocation or substitution of the orders against the accused, Knox and Sollecito, who had been freed only by the Court of Assizes Appeal Court of Perugia, at the end of the appeal proceedings.

Second point: the Court of Assizes at first instance, presided over by Dr Giancarlo Massei, with Dr Beatrice Cristiani as Recorder, at the end of a very long and thorough trial phase, had sentenced Mr Sollecito and Ms Knox for murder and the connected offences and Ms Knox, in addition, for calunnia against Patrick Diya Lumumba.

At appeal level, the Court of Assizes Appeal Court, inexplicably composed of the President of the Social Security [=Welfare] Chamber and of an advisor specialised in the Civil Chamber, -- without it being that presiding over bench there was the President of the Criminal Chamber, Dr Sergio Matteini Chiari, nor in any case there being present a magistrate from the competent criminal chamber --, had acquitted the two but had upheld the conviction of Ms Knox for calunnia, setting the penalty as a good three years of imprisonment. In the course of the proceedings there had been two experts nominated [by the Court] who, amongst other things, had submitted their report ignoring the documents attesting to the negative result of controls on the presumed contamination of the knife and of the bra-clasp, documents adduced instead by the Public Prosecutor. This would have entailed the sweeping away of [=the complete rejection of] the same expert report but the Court, presided by Pratillo Hellmann, with Advisor-Recorder Dr Massimo Zanetti, had ignored the grave error committed by the experts, an error which had been severely censured by the Court of Cassation, First Criminal Chamber, in the decision handed down on 26 March 2013 no. 26455/13 (see p 69 of the

judgment), deposited on 18 June 2013, Pres. Dr Severo Chieffi, Recorder Dr Piera Maria Severina Caprioglio (see Annexure no. 2).

Third point: this latter judgment had accepted almost all the grounds of appeals put forward by the Prosecutor-General and had annulled completely and *definitively* the acquittal decision, with remission (evidently upholding the grounds) to the Court of Assizes Court of Appeal of Florence which, in its turn, had fully confirmed the convictions of the Court of Assizes of Perugia.

Fourth point: the judgment of the court remitted to would have been impugnable only for reasons not regarding the points already decided by the Court of Cassation, according to the very clear disposition of Article 628, second paragraph, Criminal Procedure Code. From this it follows that the Fifth Chamber of the Supreme Court, called on to decide the merits of the appeals brought by the accused against the decision of the court remitted to, would have had to consider as inadmissible the appeals presented in violation of the second paragraph of Article 628 Criminal Procedure Code and, in any case, would have had to rigorously conform with the points already decided by the First Chamber and with all the questions of law decided by the same, -- the latter constraint, as constituted by the jurisdiction of sole legitimacy, being understood --, for defect pursuant to Article 606 Criminal Procedure Code and limited to the grounds proposed by the appellants (Article 609 Criminal Procedure Code).

Fifth point: the Court of Cassation cannot, therefore, ever adopt decisions on the merits and issue orders of acquittal

under Article 530, second paragraph, Criminal Procedure Code.

Sixth Point: two chambers of the same Court of Cassation, the First (the one competent for proceedings in homicide matters, whose decision of annulment is definitive and who had identified and decided questions of law in a definitive and un-retractable manner) and the Fifth (who would have had to decide the appeals presented only on grounds of legitimacy of the defendants', constrained by what had already been definitively decided by the First) have handed down two absolutely divergent decisions and the second had annulled the Florentine decision, positively excluding any remitting to another court and acquitting the defendants pursuant to Article 530, second paragraph, Criminal Procedure Code.

The Fifth Chamber's reasons have not yet been handed down and we await their contents becoming known. It cannot be denied, in any case, that the decision of the Fifth Chamber, is a decision that is not only absolutely unforeseeable and anomalous but that it positively constitutes a *unicum* [singular object in defiance] of the jurisprudence of the Court of legitimacy.

Seventh point: in any case, Amanda Knox has already been definitively convicted for the calunnia against Patrick Diya Lumumba.

So, from these starting points in fact and in law which are absolutely undeniable, it emerges that the course of proceedings in this case have been absolutely linear and respectful of the substance of the procedural rules up to and including the Florentine decision.

In fact, after the confirmation of the prosecution case given both in relation to the precautionary measures and in relation to the merits of the question and after the decision of the Perugian Court of Appeal which had altered that of first instance, the Court of Cassation, on the appeal of the Prosecutor-General of that same district Court, had in a radical and definitive manner annulled the acquitting pronouncement and had remitted it to the Florentine district court because the same would adopt the consequent decisions of merit in the line of reasoning of the principles of law laid down by the First Chamber of the Supreme Court and of the points decided by it.

These principles of law are by now unmodifiable and unarguable: the Court of legitimacy, called on to decide the matter, as a "second opinion", concerning the appeal of the defendants from the judgment below, would have had to hand down a judgment fully within the "railway tracks" of the law, as fixed by the First Chamber, like the Florentine district court did, principles from among which we may cite:

the principle, in fact the unfailing legal prerequisite of a Supreme Court decision, namely the fact that the Court is precluded from "trespassing into a re-evaluation of the compendium of evidence" (see the judgment of the First Chamber at page 40);

the principle of law of the total and holistic evaluation of the probative material, as opposed to the "parcelled-up and atomistic evaluation of the pieces of circumstantial evidence, taking them into consideration one at a time and discarded in terms of their demonstrative potentiality", which characterised instead, in the negative, the decision of the Court presided by Pratillo Hellmann (see the decision of the same

First Chamber at pp. 40 and 41 and the decision of the United Sections no. 6682/1992). The ancient brocard "Quae singula non probant, simul unita probant" ['Those which alone do not prove, together do prove'], quoted on p 41 of the First Chamber's judgment, consecrates in a definitive and unmodifiable manner this requirement of a global and holistic approach in which each individual piece of the jigsaw puzzle of reconstruction of the facts is considered together with all the others in their demonstrative synergy;

the principle by which the Perugia district court had run afoul of grave shortcomings and contradictory lines of reasoning and in glaring misrepresentations of the outcome, even in the attempted decoupling of the calunnia, by now definitively attributed to Ms Knox, with the result of masking from view the responsibility of the same in the homicide;

the principle according to which the testimony of the homeless person Mr Curatolo ought to have haven evaluated on the basis of corroboration between his statements and the objective and unarguable circumstances emerging from the trial (such as the fact that the witness had with absolute decisiveness anchored the fact of having seen the two accused in the precincts of the basketball courts of Piazza Grimana, nowadays Piazza Fortebraccio, the evening before the arrival, the following day, at the Via della Pergola house of the men from Forensics in their white coveralls), rather than on the basis of Mr Curatolo's social conditions and lifestyle (see the cited judgment of the First Chamber at page 50);

the principle according to which the definitive conviction of accomplice Rudy Hermann Guede ought to have been taken into account (no. 7195/11, published on 16.12.2010, it also

from the First Criminal Chamber of Cassation), Guede having been held to have been extraneous to the simulation of burglary of a house. [A] habitation that, on the night of the murder, was solely at the availability of the victim and of Amanda Knox and from the statements made by the same Rudy before the Perugian district court, according to which Meredith was killed by the two co-accused (see the judgment at pages 55 and 56).

The principle by which contamination of the evidence is to be proved by the party invoking it and which, on the facts of the case, no evidence in support had been offered and which the Perugian District Court had seriously confused the abstract possibility of the fact with the averment of the fact (see the judgment at page 69).

The principle according to which it was a matter of a homicide committed by multiple persons, in concourse amongst themselves (see page 73 of the cited judgment).

THE INTERVIEW OF ADVOCATE MAORI BY ALBERTO LAGANA' AND THE "SETTEGIORNI UMBRIA" ARTICLE

The preamble and the list of principles of law definitively fixed by the First Chamber of the Court of Cassation were indispensable for accepting the extreme gravity of the affirmations attributable to the author of the article and to the Advocate, for their absolute gravity and superficiality, and the grave defamatory import and bad faith which emerges from the willing elimination from the narrative of elements which would have provided a picture of the investigations and of the

various phases of the proceedings quite different to that supplied by the interview.

If the contents of the same had been read, ignoring the now unalterable “brush-strokes” of the First Chamber of Cassation’s judgment, one would have been induced into thinking that errors upon errors had been committed by the officers and agents of the police taskforce and by magistrates convinced of the prosecution case against Ms Knox and Mr Sollecito, then in fact of a “conversion” of the error into a knowing arbitrary act and a continuing denial of this hypothesis, finding its verification in the course of the proceedings. One would have been led to think of investigators who, incurable in terms of these continual “denials”, falling prey to a kind of accusatory delirium which was by now running unchecked, would have continued to “persecute by prosecuting” two poor youngsters, contrary to any probative evidence, for the sole purpose of not seeing their initial reconstruction denied.

And yet, even Patrick Diya Lumumba had been initially incriminated and arrested, on the basis of the calumnious allegations of Ms Knox and he had spent several days in prison but then when, it emerged, after some days, that he was innocent, the same Dr MIGNINI had first of all asked for the cessation of his precautionary custody and then the archiving and closing of the proceedings against him, in accordance with the role of impartial office that the Public Prosecutor shares with the Court and which distinguishes him from defence counsel.

And why in any case would especially Dr MIGNINI but also

Dr NAPOLEONI and Assistant Captain ZUGARINI have been ranged relentlessly against the two co-accused?

The defamatory import emerges with further evidencing of the contrast between the conduct, presented as irresponsible, of the investigators in the Kercher case with that of other investigators, such as for example those who had worked on the case of the murder of Alessandro Polizzi (investigators who are, amongst other things, almost all the same as those employed on the Kercher murder), for which there was, as Mr Laganà records, a conviction at first instance, just as, it will be recalled, in the case of the murder of Meredith Kercher.

But then, already, for Advocate Maori and the journalist Laganà, the good investigator (police officer or magistrate) is the one who supports the defence. When instead things shift into a different viewpoint, they are an atrocious investigator.

And then, trusting in the fact that for the readers it would have been difficult to be able to learn the details of the Kercher proceedings, the two launched themselves into making unbelievable, irresponsible statements, defamatory beyond any limit, statements which express an inexplicable rancour and bitterness towards the investigators in the Kercher case, from which, for the rest, especially Advocate Maori had given proof of from the start itself of his defence of Raffaele Sollecito.

And all this had occurred in open defiance of those principles of law that the First Chamber of the Court of Cassation had fixed and which no-one can now modify, not even a different Chamber of the same Court.

It suffices in fact to briefly glance over Maori's complaints to realise that the same has ignored the contents of the First

Chamber judgment and has actually attributed a prejudicially hostile behaviour of the investigators towards the accused:

concerning the homeless man [=Curatolo] the lawyer repeats the usual allegations of testimonial unreliability linked to his habits and his lifestyle and to the fact of his having already been a witness in other cases (that aspect is logically incomprehensible and ought to constitute an element of reliability of the witness rather than an element counting against him) and concerning the murder weapon he insinuates that it had been pulled out of a kitchen drawer when the medico-legal findings "were talking of a large kitchen knife as the murder weapon" (see page 6 of the article). But has Advocate Maori seen the seized knife? It actually is a large kitchen knife on which had been found the genetic profile of Ms Knox at the point where the blade began, straight after the "buffer stop" or guard of the handle and the victim's profile on the blade, near to the point.

Then Maori adds, repeating a singular idea repeated many times in the course of the proceedings and put to the Prosecution as the most significant expression of the error committed by the investigators: the guilty party, Rudy Hermann Guede, had already been secured by justice. Why continue to investigate the other contenders, when it had been found that it was Rudy who, no one knows why, would have been the sole killer and whose presence would have been incompatible with any accomplices? And how is Advocate Maori able to affirm that the guilty party was Rudy if the two co-accused were "far" from Via della Pergola (about five minutes on foot, that's all it takes to reach Via della Pergola from Mr Sollecito's apartment) and in any case they weren't even at the scene of the crime?

Perhaps Advocate Maori is overlooking that, by now, owing to the force of the judgment that definitively confirmed the responsibility of Rudy Hermann Guede, the homicide against Meredith is a crime committed by three people in company?

In the crescendo of critiques, there arrives the conclusive judgment that one truly has difficulty in comprehending, because it is totally outside the thinking of those now suing and outside of normal legal procedural language. "**In sum**" the advocate affirms "**someone has let themselves be taken in by a sort of 'orgy of power' following a wrong path**" (the bolding is the writer's): see the article at page 6.

Journalist Laganà would have been able to profit from the clamorous lexical misfortune of the advocate, by in some way putting some distance between himself and these "judgments" which are so irresponsible and defamatory, especially considering the multiple confirmations that the prosecution case had collected at every level, but instead Laganà had wanted to side himself with the advocate and confirm those opinions.

"**It was a sort of justice freakshow"** commented Laganà (see page 6 of the article) "**a sadistic dogged obstinacy against two young people whose only fault was to know the victim …"** (the bolding is ours). Laganà knows nothing about the proceedings and plainly ignores the calunnia by Ms Knox against Lumumba, the mise-en-scene of the burglary (which could have been realised only by someone who would have been afraid of becoming involved in the investigations), the genetic material of Ms Knox found a little bit below the handle of the knife and that of the victim in proximity to the point of the blade, the genetic profile of Mr Sollecito found on

the clasp of Meredith's bra, the systematic lies of the two, the traces of mixed blood of Knox – Meredith and the print of Sollecito's foot stained with blood on the small mat in the bathroom next to the room where the murder happened, the traces revealed with Luminol, of the bare feet of Amanda and Sollecito, the witness who sees the two between 21.30 and 23.30 in Piazza Grimana, a couple of dozen metres from the murder scene, and Rudy's accusations, just to mention a few examples.

And Advocate Maori, instead of correcting Mr Laganà, launches a series of disjointed and rambling accusations against the investigators, including citing the rule on the civil responsibility of magistrates… and also launches accusations against the press after which the accused were able to benefit from a systematic information process in their favour and without any contradiction. One can see the case of, for example, the programme "Porta a Porta" which, in the months immediately preceding the Fifth Chamber judgment, had interviewed only Sollecito or his family and consultants, blatantly ignoring any requirement of an even balance, which instead had occurred previously, and all this in a programme on the public network..

Unfortunately, this procedural matter has been marked by pressures (often accompanied by menaces) and defamations which the investigators, themselves as well, have suffered in the media, by a very serious activity of disinformation and from serious attacks on the personal and professional reputation of the investigators by numerous organs of information especially in the United States (like in fact CNN), by the extremely challengeable behaviour of experts who, beyond having "forgottten" the existence of negative controls,

had been seen by Dr MIGNINI (and, according to what has been said to him, also by the biologist at Scientific Police headquarters Dr Patrizia Stefanoni), to be having a long conversation and in a "private" manner, with the defence lawyers of the accused, in particular with Advocate Maori, before the hearing in which the experts were to be examined and cross-examined had started. This had happened in particular on two occasions, both in Piazza Matteotti, in front of the law courts building, one time in front of the main entrance and a second time, further back, in the direction of Via Oberdan, while Dr Stefanoni and Dr Comodi had seen them together, amongst the various defence lawyers for the accused, in a bar..

In addition to this, and just to take a couple of examples, there are letters addressed to Dr MIGNINI, the first on paper with letterhead from the Supreme Court [sic] of the State of Washington (in which place is found Ms Knox's city of residence, that is Seattle), on the part of judge Michael Heavey (now in retirement after having undergone a disciplinary proceeding for having used Washington State Supreme Court letterhead in a "private" letter addressed to his Italian counterparts) which turns out to have been written also to other magistrates involved, under various roles, in the proceedings and which claimed, with absolutely inconsistent reasoning, the innocence of Ms Knox, asking his Italian colleagues in a pressuring way to "acquit her"; or the highly contentious and clumsily inexpert comments of satisfaction concerning the judgment of the Court presided by Dr Pratillo Hellmann, by authority of the Government of the United States, as, to cite a couple of examples, the then Secretary of State Hillary Clinton and, above all, with repeated

interventions in the proceedings under way, Senator Maria Cantwell, of the State of Washington.

All this evidences the very particular climate in which the proceedings unfolded, especially that of the first appeal, introduced by a summary by the Recorder Dr Massimo Zanetti in which the latter was not at all worried about affirming that in the proceeding that was then being opened the only certain thing was the death of Meredith Kercher, a phrase matching the one that the Recorder of the Fifth Chamber of the Supreme Court, Dr Paolo Antonio Bruno, pronounced according to what was referred to Dr MIGNINI by an advocate for the civil party.

ON THE DEFMATORY IMPUTATION OF THE INTERVIEW DAMAGING THE UNDERSIGNED

The phrases shown in bold are, clearly, injurious to the reputation of the suitors, with the aggravation of the attribution of the specific particular and of the offence committed against public officials in the exercise of their functions.

The fact remains, it is a matter of, as already mentioned, phrases undeniably injurious to the reputation of those suing.

Describing the same as *people who had been taken prey by an unstoppable "orgy of power" which has led them to insist on following the wrong path but not disavow the original attribution of the criminous facts also (and above all) to the fellow contenders of Mr Guede*, is an allegation injurious to the consideration and to the esteem in which the individual who is the victim of it enjoys in the community both under a moral

aspect as well as a social one (reputation), especially with the use of an evocative term for behaviour unrestrained and marked by excess, and not only of a sexual type, such as that of "orgy".

To add, as the journalist Laganà has done, that *the activity of those suing has led to a "judicial freakshow" and to a "sadistic obstinacy" against Mr Guede's two fellow contenders, "guilty only of knowing the victim"*, signifies the attribution to the suitors, without any explanation, of an action intended to give life to a "judicial freakshow", a trial held outside of the contexts in which justice is administered, and to further aggravate the defamatory imputation of the phrases, attributing to those suing an unjustified "sadistic" obstinacy against two innocents whose only fault had been their knowing the victim.

The adjective "sadistic", referring totally unjustifiably to the prosecution, positioned to follow after the worrying phrase "orgy of power", renders, in fact, totally singular and intolerable a comment that would have had to refer, even however with legitimate criticisms, to a trial. Not even in the journalistic record relating to trials, especially followed by public opinion and with results much more clearly favourable to the defence, are similar phrases able to be read.

In substance, therefore, the investigators would have taken, due to their errors (so the defence describe them) "wrong paths", instead of focusing exclusively on the young man of colour, who, for "mysterious" reasons and, in any case, noted to the said applicants [i.e, the undersigned], would have rendered incompatible the co-responsibility of the other two young people, his neighbours and visitors in the same social

setting and, in the grip of a sort of “sadist – orgiastic” “raptus” [a type of temporary insanity], would have continued to accuse without end and without any proof, Ms Knox and Mr Sollecito, albeit being the same applicants bearing an obligation of impartiality (which defence counsel does not have). It is incumbent to add, that the investigators had continued to insist on the responsibility of the two, in “good company”, that is, together with the GIP Dr Claudia Matteini, the members of the Re-examination Court of Perugia, the Preliminary Hearing Judge Dr Paolo Micheli, the members of the Court of Assizes of Perugia, and those of the First Chamber of the Supreme Court and those of the Florence Court of Appeal, and this aggravates the affirmations of the interviewee and interviewer even more.

The injury to the legal right governed by the law under Article 595 Criminal Code is, therefore, clear, as is clear the existence of the aggravation of the offence caused against public officials (magistrates and officers of the police investigative taskforce) because of their office and attributing to them a particular fact, as to the investigative activity, for both types of suitors and, for the magistrates, also relating to the exercise of criminal action at the committal proceedings and the conclusive submissions, in case no. 9066/07/21, relating to the murder of Meredith Kercher and other offences.

To this it must be added that two of the required conditions are clearly lacking for holding conduct permissible which would otherwise be defamatory (see Cass. 18.10.1984 n. 5259), which is to say the moderation and temperance of the phrases used and the objective veracity of the words of the notice.

As for the first, upholding the principle in question requires that diffusion of news take place in a civil and correct form and that the exposition of the facts is presented, as far as it is possible, as objective and unclouded. There does not have to be, in other words, any "aggressive" phrasing which is not justified to prop up a clash of ideas, however harsh and bitter, and which shapes into a gratuitous, and unjustified, attack, on the reputation of the one defamed. In particular, whilst it is not forbidden to have colour and slant, and acerbic and argumentative tones entering into usage and objectively offensive terms that have no equivalents and which are not overblown for the concept to be expressed (see Cass. 3.05.1985, Ruschini, in Riv. Pen. 1986, 730), words lacking such characteristics have to be considered unjustified.

When in fact the offensive expression can be avoided because equivalents exist or else when the offence is excessive and overblown with respect to the argumentative purpose, there is injury to moderation and temperance and, under this aspect, defamation is committed.

Now then, leaving aside of the truth of the words of the notice, what was the idea that needed to be expressed in the interview? Was there a desire to allude to the fact that the investigators "took the hand" of the prosecution as against the two subjects who didn't have any proof against them, and who had not wanted to admit their error due to the very strong media pressure that was dogging those proceedings. And so, the investigators, so as not to have to deny it, and influenced by this pressure, had continued to accuse innocents.

An attempt was made to translate with moderation and temperance the concept, albeit totally unanchored from the

real and complex course of the proceedings, that the interviewee and interviewer had wanted to express. As can be seen, with calmer language the same result would have been obtained. Instead, those now being sued, moved by their rancour and by the intention to gratuitously and futilely defame the investigators, have preferred wording even more offensive and totally overblown with respect to the requisite informational goals and they cannot now invoke the criterion of moderation and temperance that they have not respected.

There is, as well, the criterion of truth of the narrated facts, that is, of the "correspondence between the facts as occurred and the facts as narrated" (see Cass. 15.01.1987) which requires the journalist to search in all directions for the truth of the notice, so as to arrive at touching upon, from multiple sources, even opposed ones, elements of judgment and evaluation of the truth as a whole of the notice, offering proof of the care taken, with direct checks and the elimination of any doubt and uncertainty over the truth as a whole of the notice.

In the article, the interview the object of the present suit , both the interviewee and the interviewer seemed to have teamed up to knowingly distort the truth of the facts, above all through the omission of unavoidable particulars that would have drawn a picture quite different from the one supplied.

The proceedings of the Meredith Kercher homicide are, in fact, complex, quite complex and multi-stranded and, above all, the final outcome is, clearly, anomalous and in contrast to procedural rules, as is seen above, but of this complexity, multi-stranded nature and anomaly there is no trace in the interview.

The fact of the matter is that there are two sets of proceedings, one against Amanda Marie Knox and Sollecito Raffaele, in terms of a full trial, the other against fellow contender Rudy Hermann Guede, in terms of a fast-track trial.

The first resulted in a conviction at first instance, the reversal of the conviction (save for the calunnia charge against Ms Knox) on appeal, the radical and definitive annulment of the acquittal, by the First Chamber of Cassation, with remittance to the Florence Court of Appeal, the confirmation of the conviction at first instance by that Florentine district court, following which there was very strange annulment, without remittance, by the Fifth Chamber of the Court of Cassation and an acquittal of the accused under the "weakened" and "doubtful" formula of the second paragraph of Article 530 Criminal Procedure Code, in open violation of Articles 609 and 628, paragraph two Criminal Procedure Code and with inadmissible re-evaluation *of the merits* of the case. An annulment without remittance, according to what has been given to be known, *not requested by the appellants-accused who had reiterated their usual objections to the decision but had asked for annulment with remittance.* All of that, given the already definitive conviction of Ms Knox for calunnia against Patrick Diya Lumumba.

The second proceedings have concluded with the conviction of Rudy for offence in company with another two subjects (in the judgment Ms Knox and Mr Sollecito are themselves indicated) in the murder and other matters but not in the staging of the offence.

Of this complexity, as has been said, there is no hint in the article, which limits itself to talking about the (definitive)

acquittal of the two accused "in the Perugia case". It is not given to understand what the acquittal of the two accused in Perugia has to do with anything, that is, the decision of the Appeal Court presided over by Pratillo Hellmann, a decision now definitively quashed, that is to say cancelled, by the First Chamber of Cassation and which the Fifth Chamber of the same cannot resurface because the annulment performed by the First Chamber is, as has been said, definitive, non-retractable and the Fifth Chamber was only able to annul the decision of the Florentine district court.

In short, evidencing the totally anomalous nature of the last decision of the Court of Cassation, stands the facts that the Perugian decision of acquittal of the two accused on appeal (excepting the calunnia for Ms Knox) has been annulled by the First Chamber, while the appeal decision confirming the conviction at first instance has been annulled by the Fifth Chamber. In short, there are two judgments of the Supreme Court in open contradiction with each other and what counts the more, all the judgments on the merits have been swept away, those of appeal directly, that of first instance indirectly.

About this, it seems that neither Mr MAORI nor Mr LAGANA' have been the slightest bit aware of: the same [two] appear to have posited an *abnormal* situation, that is to say a kind of "annulment" of the decision of the First Chamber by the Fifth Chamber of the same Court, with a species of "return to life" of the Perugian district Court decision, a literally unimaginable hypothesis and outside of any even minimal "justification" of the procedural rules that govern the activity of the Supreme Court.

The defamatory expressions undeniably reference Dr MIGNINI, Dr Monica NAPOLEONI and Assistant Captain Lorena ZUGARINI. The whole article is a broad-brush attack against the inquirers, that is, against those who had carried out the investigations, up until the notification of their conclusion. In this phase Dr MIGNINI had been the sole person to “guide and coordinate the investigations”, being flanked only on the basis of notification pursuant to Article 415 bis Criminal Procedure Code by Dr Manuela Comodi, notification *in relation to which the defendants had not even minimally exercised their defensive faculty as recognized by Article 415 bis, third paragraph Criminal Procedure Code* and had allowed the twenty days provided for to lapse unused, and allowed that the public prosecutors would exercise criminal action.

As for the formulation of the charge of aggravated murder in company for the three, and associated charges (which the defender, against all evidence, called “unjust and inconsistent”, at the time when the charges were being formulated), even these same reference Dr MIGNINI, to which is joined, on the other hand, Dr Comodi also who had collaborated with the former in the notice pursuant to Article 415 bis Criminal Procedure Code and in the request for remand to stand trial.

Therefore, given that Dr MIGNINI is the principal target of the accusations, the same are however also directed against the Flying Squad of Perugia, in relation to the “presumptively” casual collection of the knife and therefore against the officer responsible for the Homicide Squad and its most tightly bound member.

This submitted, we the undersigned Dr Giuliano MIGNINI, Dr Monica NAPOLEONI and Assistant Captain Lorena ZUGARINI,

propose, therefore, suit for damages, for the offences pursuant to Articles 110, 595, third paragraph Criminal Code, aggravated pursuant to Article 61 (10) and second paragraph of Article 595 Criminal Code and 57 Criminal Code, as against **Advocate MAORI Luca**, with legal offices in Perugia, Via Guglielmo Marconi no. 6 and **Alberto LAGANA'**, the first an interviewee and the second, interviewer and author of the annexed article and **Bruno BRUNORI,** as the then responsible Editor of the Weekly "Settegiorni Umbria", whose Management, Editorship and Administration is in Perugia, 06121, Via Gerolamo Savonarola n. 74**,** in the aforesaid capacity and **of anyone else who might had aided** in the publication of the article and we ask for their punishment and conviction, jointly and severally, and for recompense for all damages suffered as a consequence of and deriving from the cited article.

Indicated as persons informed of the facts:

Insp Armando Finzi, of the Perugia Flying Squad, c/o Questura Perugia, on the facts concerning the suit and, in particular, on the seizing of the knife;

Dr Daniela Severi, Registrar, working at the Procura della Repubblica di Perugia (DPP's Office of Perugia), in Via Fiorenzo di Lorenzo, Perugia 06121, on the facts concerning the suit;

Advocate Carlo Pacelli, with legal firm in Perugia, 06121, Via Domenico Scarlatti 37, on the facts concerning the suit;

Giuseppe Castellini, the responsible Editor of Il Giornale dell'Umbria ("Umbria Journal"), with offices in Perugia, Via Monteneri n. 37, on the facts concerning the suit;

Dr Manuela Comodi, Deputy Public Prosecutor of Perugia, for

all the facts concerning the current suit.

Dr Patrizia Stefanoni, c/o Servizio Polizia Scientifica della Direzione Centrale Anticrimine, Roma, Via Tuscolana n. 1548, on the facts concerning the suit.

We ask, likewise, to be examined on the facts the subject of the suit; we reserve the production of further documents and the playing of the video, broadcasted immediately after the decision of the Fifth Chamber of Cassation on 27 March 2015, on "Quarto Grado" ['The Fourth Degree'], in which, according to what we have learned, journalist Remo Croci had interviewed Raffaele Sollecito and Advocate Luca Maori who had repeated similar, if not more serious, concepts as well as other phrases, for the purposes of another suit, also covering subjects responsible pursuant to Article 57 Criminal Code.

For These Reasons

we the undersigned Dr Giuliano MIGNINI, Dr Monica NAPOLEONI and Assistant Captain Lorena ZUGARINI submit a **suit** against those responsible for the conduct described in the current document, that is **Advocate Luca MAORI, Alberto LAGANA' and Bruno BRUNORI, in their roles above indicated, to identify fully** and against **anyone who may have been an accessory** in the publication of the article, for the offences pursuant to Articles 110, 595, third paragraph, Criminal Code, aggravated pursuant to Article 61(10) and second paragraph of Article 595 Criminal Code, for the first two and 57 Criminal Code, for the third, with abuse of court process for the first and **we seek**, as outcome of the investigations carried out, the punishment of all those responsible against whom penal action ought to be exercised, with reservation of

the damages submission for the restoration of all the serious damages howsoever caused deriving from all this conduct.

We oppose hitherto the definition of the proceedings via a sentencing decree of conviction, **pursuant to Article 408 Criminal Procedure Code, we ask hitherto to be advised in the case of an archival submission**.

Nominated as defence counsel is Advocate Marco Rocchi, of the Florence Bar, with offices in Firenze, 50125, Via Maggio no. 28, with whom we elect domicile [for notification].

Perugia, 28 May 2015

Dr Giuliano MIGNINI, Dr Monica NAPOLEONI and Assistant Captain

Lorena ZUGARINI

Annexure no. 1: Article from the weekly "Settegiorni Umbria" no. 3 of 2015;

Annexure no. 2: Decision of the Court of Cassation, First Criminal Chamber, made on 26.03.2013, no. 26455/13, deposited on 18.06.2013