



Condo: the smells of the kitchen disturb the neighbors? It is an offense

For the Supreme Court, even the cooking smells that exceed the tolerance threshold of dangerous integrate jet case of former things art. 674 C.P.

Editorial - sauce and fried disturb your neighbor? Attention can be a crime! He pointed to the **Supreme Court**, the sentence no. 14467/2017 filed on March 24 (attached below) declared guilty of the offense formerly art. 674 C.P. the owners of a condo for causing **continuous introduction of fumes, odors and noises harassing neighbors on the third floor**.

A worthless the complaints of the accused about the non extensibility analog **art. 674 C.P.** emissions of odors, or as alleged, that the majority doctrine considers it necessary "that emissions were likely to injure, deface or harass people and that is forbidden by law, while in the case concerned issues of cooking smells that, their nature, were not designed to offend, deface or harass people and they certainly were not prohibited by law. "

For Ermellini, in fact, the Court of Appeal correctly ruled out the possibility of pronouncing the acquittal for lack of fact, instead of declaring the prescription because, "not only considered properly subsumed the particular case under the provisions of art. 674 Criminal Code which includes harassing odor emissions - but - also assessed so reasonable proof of the facts achieved in the first instance through the testimonies of the injured parties, defined as clear, precise, logically structured, reiterated before the court without any contradiction and exposed without unnecessary exaggerations ".

The fact that the parties there were neighborhood contrasts also could not in itself undermine the overall reliability of the offended neighbors who had stated that when defendants cooked, "as well as loud noises extractor, their apartment is soaked dell ' smell of gravy and fried, seeming to have their kitchen at home!

As stated several times by the law, then they sentence the Palazzaccio, the fine provided for in Article. 674 C.P. "It is also configurable in the case of 'olfactory harassment' regardless of the issuer with the specification that when there is no predetermination of emission limits law, one must have regard to the criterion of normal tolerance in art. 844 cc" . Criterion, therefore, exceeded in this case.

Cassazione, sentenza n. 144467/2017
Fonte: www.StudioCataldi.it

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