

**IN THE COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE
A.MICALLEF TRIGONA LL.D.,MAG.JUR (EU LAW)**

THIS 31ST MAY 2017

**The Police
(Inspector Louise Calleja)**

vs

Lin Han

The Court,

Having seen the charges brought against the accused of Maltese Identity card number 31973A accused for having on the 3rd May 2012 and in the preceding months, on these islands by several acts committed by her, even if at different times, which constitute violations of the same provision of the law, committed in pursuance of the same design:

1. by means of violence or threats, including abduction, deceit or fraud, misuse of authority, influence or pressure or by giving or receiving payments or benefits to achieve the consent of persons having control over, trafficked persons of age Yuan Fang, Ou Ruiqiang and Feng Tao for the purpose of exploiting that persons in the production of goods and provision of services and also for prostitution;
2. knowingly lived, wholly or in part, on the earnings of the prostitution of other persons, of foreign nationality namely Yuan Fang ;
3. kept or managed or shared with others in the management of a brothel or of any house, shop or other premises or any part thereof which is or are, or is or are reputed to be resorted to for the purpose of prostitution or other immoral purposes;
4. as a person responsible for a shop, lodging-house or hotel or any private apartment suffered or permitted such shop, lodging house, hotel or apartment or any part thereof to be used as a place of assignation for the purpose of prostitution or any other immoral purpose;

The Court is requested on conviction for an offence under the White Slave Traffic (Suppression) Ordinance Chapter 63 of the Laws of Malta, to cancel any licence held by the offender in respect of any hotel, lodging-house shop or other premises wherein or within the precincts whereof the offence was committed as stipulated in Article 14 Chapter 63 of the Laws of Malta.

The Court is being requested on reasonable grounds to provide for the safety of any vulnerable witnesses and their families and other families and other persons, and forthwith apply the provisions of Section 412C of the criminal Code and thus issue a protection order against with all the necessary restrictions or prohibitions.

The Court is being requested in pronouncing judgement or in any subsequent order, sentence the person convicted to pay the costs incurred in connection with any experts or referee and this in accordance to Article 533 of the Criminal Code.

Having seen the final note of transmittal by the Attorney General in virtue of which and according to the articles of law cited therein, accused was remitted to this Court to be judged as to her guilt or otherwise;

Having ascertained that accused had no objections that her case be decided by this Court;

Having heard the evidence;

Having seen the written submissions from the parties;

Having read all the acts and records of these proceedings;

Having taken of the note of submissions of the prosecution and defence

Considers:

In terms of the articles of law stated by the Attorney General in his note of transmittal, accused is charged: with the trafficking of persons under Article 248A(1)(2)(3), 248B and 248E(1) of the Criminal Code; with other offences in breach of the White Slave Traffic (Suppression) Ordinance, Chapter 63 of the Laws of Malta.

The offences regarding these proceedings, under both Chapter 9 and Chapter 63 of the Laws of Malta, relate to three Chinese nationals employed by accused in her establishment styled 'Honey Girl Beauty Spa' situate in Valley Road, Balzan. The prosecuting Officer, Inspector Louise Calleja, commenced her testimony by stating that the investigation on the afore-mentioned establishment was of a routine nature also carried out on other massage parlours by the Vice Squad section within the Police Force. Evidence of what transpired from the inspection refers to a male client, aged about seventy, observed lying face down on a couch, in a private room, with just a towel as a cover, being given a massage by a fully clothed Chinese woman.

As for the three persons of Chinese nationality these are Yuan Fang, Ruiqiang Ou and Feng Tao, the latter two employed as chefs. Referring to their testimony all three confirm that they were not in any way constrained by the accused, or for that matter by any other person, and had full freedom of movement. Neither were they forced by any physical or moral violence to work for the accused. Their dispositions, moreover, attest that their working conditions are those that were discussed and agreed to with the accused. In any case, no proof has been offered to show that their working conditions do not conform and/or were in breach of local labour laws.

As for the services required of them in relation to their employment there is no evidence to show that they were engaged or otherwise exploited to carry out immoral activities or engage in prostitution particularly in the case of Yuan Fang. There is nothing to disprove that she had not been engaged as a masseuse and manicurist. It is her evidence, given viva-voce, in open Court, in these proceedings, that have a probative value. At any rate and irrespectively, the Court on a careful reading of her statement released to the police and her testimony in the magisterial enquiry finds nothing to suggest that her employment envisaged other services besides that of a masseuse and nail therapist. Besides, there is the evidence of the person who at the time when the police raided the premises was being given a massage, which irrespective of all irrelevant considerations, was a normal and straight-forward one.

On the basis of what has been said and after having assessed all the evidence compiled in these proceedings, the Court has reached its conclusion: (i) that the offence of trafficking under Article 248A of Chapter 9 with the consequent exploitation of the person as therein envisaged does not

result; (ii) consequently and in view of the conclusion in (i) above all other offences, namely, under Article 248B, E(1) of Chapter 9, Article 7(1)3), 8(1)(2)(3), 9, 10, 14 of Chapter 63 do not result.

Therefore, the Court disposes of the case by declaring the accused not guilty as charged and acquits her.

A.M.Trigona
Magistrate

