



Criminal Court

Hon. Judge Giovanni M. Grixti, LL.M, LL.D.

Bill of Indictment No. 7/2017

The Republic of Malta

Versus

Martin Aghanti

Today, 5th July, 2018.

The Court,

Having seen the charges brought against the accused **Martin Aghanti**, holder of Italian travel document bearing No. 109076, by means of Bill of Indictment No. 7 of the year 2017 whereby the Attorney General in the First Count premised :

That on the twenty ninth (29th) November of the year two thousand and fourteen (2014), the drug squad police were alerted by Seaport personnel about the arrival of a Nigerian national by Catamaran VF801 (Jean de La Valletta) in Malta from Pozzallo, Sicily, in whose possession a substance was found suspected of being illicit. In fact this individual was arrested and investigated whereby the suspicious substance found in his possession was seized and handed over to the experts for analysis whereby it transpired to consist of cannabis plant which is considered an illegal drug in our country. The person

carrying such substances was Martin Aghanti, hereinafter referred to as the accused in these proceedings;

That it transpired further from investigations that the accused entered into Malta carrying a luggage and a backpack when he was stopped by Seaport customs personnel in the course of random checks. When his luggage was processed through the X-ray machine the findings were suspicious and upon further inspection of the accused's luggage, two packages were found inside the lining of a black jacket which was inside a backpack which accused was carrying and suspected of possibly containing cannabis plant. The accused was himself carrying the luggage which he allegedly willingly received from a third party and which transpired to consist of the illegal drugs which when weighed consisted of almost two kilos of cannabis grass, more specifically one thousand nine hundred and fifty one grams (1951g) bearing a purity of 7.5% and having an aggregate street value of forty eight thousand seven hundred and seventy five Euro (€48,775). Effectively, if the Seaport Personnel and Drug Squad Police failed to identify the content of the packages found in Aghanti's possession, the illegal content thereof would potentially have been transferred to third parties in Malta and would have been trafficked for financial gain by others;

Cannabis plant is considered to be a dangerous drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance. Martin Aghanti was not in possession of any valid and subsisting procurement, manufacture, exportation or importation authorisation of such illegal substance, duly granted in pursuance of the said law;

By committing the abovementioned acts with criminal intent, on the twenty ninth (29th) November of the year two thousand and fourteen (2014), the accused Martin Aghanti rendered himself guilty of importing or bringing into, or exporting from Malta the whole or any portion of the plant Cannabis (excluding its medical preparations).

Wherefore, the Attorney General, in his capacity, accuses Martin Aghanti of having on the twenty ninth (29th) November of the year two thousand and fourteen (2014), of being guilty of importing or bringing into, or exporting from Malta the whole or any portion of the plant Cannabis (excluding its medical preparations); demands that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for a term of not less than twelve months but not exceeding ten years and to a fine (multa) of not less than four hundred and sixty-five euro and eighty seven cents (465.87) but not exceeding twenty three thousand and two hundred and ninety-three euro and seventy-three cents (23,293.73), as is stipulated and laid down in sections 7, 10(1), 12, 14, 15(A), 20, 22(1)(a),(1B),(2)(a)(ii) and 26 of the Dangerous Drugs Ordinance and regulation 4 and 9 of the 1939 Regulations for the Internal control of Dangerous Drugs (Legal Notice 292/39), and in sections 23 and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilt of the accused.

Having seen the second count of the bill of indictment as premised by the Attorney General, whereby :

That owing to the nature of the circumstances as described in the first Count of this Bill of indictment which took place on the twenty ninth (29th) November of the year two thousand and fourteen (2014) as well as on the basis of the information established during the course of the

investigations apart from the details tendered by the accused, it transpired that the accused retained the illicit substances cannabis plant in considerable amounts. Moreover the considerable amount of drugs held, totalling to almost two kilos of cannabis grass, more specifically one thousand nine hundred and fifty one grams (1951g) bearing a purity of 7.5% and an aggregate street value of forty eight thousand seven hundred and seventy five Euro (€48,775) as well as the degradable nature of the drug thereof, most certainly do not indicate in any way that such substances could have been intended for the personal use of the accused and that the substance was in fact intended for onward trafficking in our country;

Cannabis plant is a dangerous drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance. Martin Aghanti was not in possession of any valid and subsisting procurement, manufacture, exportation, importation or possession licence duly granted in pursuance of the said law authorising that such illegal substance be held in the accused's possession.

By committing the abovementioned acts with criminal intent, on the twenty ninth (29th) November of the year two thousand and fourteen (2014), the accused Martin Aghanti rendered himself guilty of having in his possession (otherwise that in the course of transit through Malta or the territorial waters thereof) the whole or any portion of the plant Cannabis (excluding its medical preparations) **in that such possession was not for the exclusive use of the offender.**

Wherefore, the Attorney General, in his capacity, accuses Martin Aghanti of having on the twenty ninth (29th) November of the year two thousand and fourteen (2014), rendered himself guilty of having in his possession (otherwise that in the course of transit through Malta or the

territorial waters thereof) the whole or any portion of the plant Cannabis (excluding its medical preparations) **in that such possession was not for the exclusive use of the offender**; demands that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to fine of not less than two thousand three hundred and thirty Euro (€2330) and not more than one hundred sixteen thousand and five hundred Euro (€116,500) and to the forfeiture in favour of the Government of Malta of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in sections 8(d), 12, 14, 15, 20, 22(1)(a)(2)(a)(i)(3A)(a)(b)(c)(d) and 26 of the Dangerous Drugs Ordinance and regulation 4 and 9 of the 1939 Regulations for the Internal control of Dangerous Drugs (Legal Notice 292/39), and in sections 23 and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilty of the accused.

Having seen the joint application of the Attorney General and the accused, presented in the registry of this Court on the 14th June, 2018 whereby, the applicants, whilst making reference to Article 453A(1) of the Criminal Code, humbly request this Honourable Court that in the event that Martin Aghanti admits to all charges proffered against him in the bill of indictment, the punishment to be awarded by this same Court, will consist of a term of imprisonment of eight (8) years and six (6) together with the imposition of a fine of twenty thousand Euros Malta (€20,000) together with the other sanctions and consequences that are mandatorily prescribed by Law upon conviction in terms of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, including the confiscation of any monies and other movable and immovable property of the accused in accordance to law;

Having seen all the records of the case, including those of the compilation of evidence before the Court of Magistrates (Malta) as a Court of Criminal Inquiry;

Having seen that in today's sitting the accused Martin Aghanti, in reply to the question as to whether he was guilty or not guilty of the charges proffered against him under the two counts of the Bill of Indictment, accused registered a plea of guilt to both charges;

Having then warned the accused in the most solemn manner of the legal consequences of such plea and allowed him ample time to retract it and this in accordance with Article 453 of Chapter 9 of the Laws of Malta;

Having seen that the accused, after being granted such time, persisted in his statement of admission of guilt;

Declares **Martin Aghanti** guilty of both counts in the Bill of Indictment, namely that :

1. On the twenty ninth (29th) November of the year two thousand and fourteen (2014), of importing or bringing into, or exporting from Malta the whole or any portion of the plant Cannabis (excluding its medical preparations);

2. On the twenty ninth (29th) November of the year two thousand and fourteen (2014), having in his possession (otherwise than in the course of transit through Malta or the territorial waters thereof) the whole or any portion of the plant Cannabis (excluding its medical preparations) in that such possession was not for the exclusive use of the offender;

Having seen articles 2, 7, 8(d), 10(1), 12, 14(1), 15A, 20, 22(1)(a)(1B)(2)(a)(i)(ii) (3A) (a)(b)(c)(d)(7), 22A, 24A and 26 of the Dangerous Drugs Ordinance Chapter 101 of the Laws of Malta, regulations 9 and 16 of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) and articles 17, 23, 23A, 23B, 23C and 533 of the Criminal Code, Chapter 9 of the Laws of Malta;

The Court is of the opinion that the sanction and measure proposed in the joint application as aforesaid in this case should be upheld and that there is no reason to proceed with the trial of the cause and, therefore, having explained to the accused the consequences of his request, condemns the said **Martin Aghanti** to a term of imprisonment of eight (8) years and six (6) months and the imposition of a fine (multa) of twenty thousand Euros (€20,000) which punishment is that requested and agreed to by the parties and which fine (multa) shall be converted into a further term of imprisonment of one year according to Law, in default of payment within the time prescribed by law.

Furthermore condemns the said **Martin Aghanti** to pay the sum of four thousand, five hundred and fifth one euros and nineteen eurocents (€4,551.19) being the sum total of the expenses incurred in the appointment of court experts in this case in terms of Article 533 of Chapter 9 of the Laws of Malta;

Moreover, orders the forfeiture in favour of the Government of Malta of all the property involved in the said crimes of which he has been found guilty and other moveable and immovable property belonging to the said **Martin Aghanti**.

Furthermore, orders the destruction of all the objects exhibited in these proceedings, consisting of the dangerous drugs or objects related to the

abuse of drugs, which destruction shall be carried out by the Assistant Registrar of the Criminal Court, under the direct supervision of the Deputy Registrar of this Court who shall be bound to report in writing to this Court when such destruction has been completed, unless the Attorney General files a note within fifteen days declaring that said drugs are required in evidence against third parties.

(sgd) Giovanni M. Grixti
Judge

True Copy

Christopher Camilleri
Deputy Registrar