



MALTA

**IN THE COURT OF MAGISTRATES (MALTA)
AS COURT OF CRIMINAL JUDICATURE**

**MAGISTRATE
DR. CHARMAINE GALEA**

Today 7th of May 2019

Compilation of evidence number 1422/11

**The Police
(Inspector Anne Marie Xuereb)**

vs.

**Raymond Bonavia (ID: 685955M)
David Athwal (ID: 28922A)
Francis sive Frankie Agius (ID: 225774M)
Stephen James Grech (ID: 111382M)**

The Court,

Having seen the charges brought against **Raymond Bonavia, David Athwal, Francis sive Frankie Agius and Stephen James Grech:**

1. For having in these Islands, in April 2011 and preceding months, by means of several acts, even if at different times, that constituted violations of the same provision of the law, and committed in pursuance of the same design, used violence in order to compel another person to do, suffer or omit anything;
2. For having also in same period and under same circumstances, pursued a course of conduct which amounts to harassment of another person, and which they knew or ought to have known amounted to harassment of such other person;

Raymond Bonavia in his personality capacity and for and on behalf of Chrism Services Limited, a company registered in Seychelles bearing registration number 074554, David Athwal and Francis sive Frankie Agius alone, are further charged:

3. for having in these Islands, in April 2011 and preceding months, by means of several acts, even if at different times, that constituted violations of the same provision of the law, and committed in pursuance of the same design, by means of an unlawful practice, or by the use of any fictitious name, or the assumption of any false designation, or by means of any other deceit, device or pretense calculated to lead to the belief in the existence of any fictitious enterprise or of any imaginary power, influence or credit, or to create the expectation or apprehension of any chimerical event, made gain in excess of two thousand and three hundred and twenty-nine euro and thirty seven cents (€2,329.37) to the prejudice of several Pakistani nationals;
4. For having also in same period and under same circumstances, promoted, constituted, organized or financed an organisation of two or more persons with a view to commit criminal offences liable to the punishment of imprisonment for a term of four years or more;
5. For having also in same period and under same circumstances, conspired with one or more persons in Malta or outside Malta for the purpose of committing any crime in Malta liable to the punishment of imprisonment, not being a crime in Malta under the Press Act;
6. For having also in same period and under same circumstances, as an employer, or intermediary or labour contractor or recruiter, made deductions from the wages of an employee in the form of direct or indirect payments for the purpose of obtaining or retaining employment;
7. For having also in same period and under same circumstances, carried on an employment agency or an employment business without a current licence granted by the Director of Industrial and Employment Relations authorizing them to carry on such an agency or business in premises specified in the licence, or without holding a relevant authorization to conduct business as an employment agency by a competent authority in a Member State, and without notifying the Director of Industrial and Employment Relations of their intention to provide or that they were providing services of an employment agency in Malta within five working days from the date of the commencement of this activity;
8. For having also in same period and under same circumstances, demanded or levied payments or charges on any applicant for employment in consideration of such employment or in consideration of registration therefor, or made deductions from the wages of any employee for any services rendered by an employment agency or employment business;
9. For having also in same period and under same circumstances, failed to provide or produce a tax or other invoice or document as and when required by Article 50 of Chapter 406 of the Laws of Malta;

Raymond Bonavia in his personality capacity and for and on behalf of Chrism Services Limited, a company registered in Seychelles bearing registration number 074554, alone, is further charged

10. for having also in same period and under same circumstances, failed to apply for registration at the time and in the manner required by Article 10 of Chapter 406 of the Laws of Malta;
11. For having in these Islands, on the 15th August 2011 or preceding days or months, knowingly failed to account for any taxable supply or any intra-community acquisition made by him in the records, documents and accounts required by the Value Added Tax Act or any regulations made under this Act;
12. For having also in same period and under same circumstances, given any return, statement or information required for any of the purposes of the Value Added Tax Act which he knew to be incorrect or misleading in any material respect;
13. For having also in same period and under same circumstances, in order to gain any advantage or benefit for himself or others, in any document intended for any public authority, knowingly made a false declaration or statement, or given false information;

Frankie sive Frankie Agius alone, is further charged

14. for having also in these Islands, on the 24th March 2011, committed theft of a mobile phone of make ZTE F102 H3G to the prejudice of Pakistani national Ahmed Feroze Chandio;

Raymond Bonavia alone, is further charged for becoming a recidivist in terms of Article 49 et sequitur of the Criminal Code by virtue of a judgement awarded by the Court of Magistrates on the 17th February 2010.

The Court was humbly requested to apply *mutatis mutandis* the provisions of Article 5 of the Prevention of Money Laundering Act, Chapter 373 of the Laws of Malta, as stipulated in Article 23A (2) of Chapter 9 of the Laws of Malta and in the case of guilt, to apply the provisions of Article 23B of Chapter 9 of the Laws of Malta.

Having seen the decree dated 28th July 2015 of the Chief Justice Emeritus Dr. Silvio Camilleri whereby this compilation of evidence was assigned to this Court;

Having seen the letter to prosecute against Raymond Bonavia by the Director General of the VAT Department (Document AG2 a fol. 40);

Having seen that on the 20th July 2017 the Attorney General in terms of Section 370(3)(a) of Chapter 9 of Laws of Malta, indicated that the accused can be found guilty of any and all of the crimes prescribed as follows:

“Against Raymond Bonavia (in his personal capacity and/or on behalf and in representation of Chrism Services Limited); David Athwal; Francis sive Frankie Agius and Stephen James Grech:

i. In articles 18, 251 and 251A of the Criminal Code, Chapter 9 of the Laws of Malta

ii. In articles 17, 383; 384; 385; 386; 532A; 532B; and 533 of the Criminal Code, Chapter 9 of the Laws of Malta;

Against Raymond Bonavia (in his personal capacity and/or on behalf and in representation of Chrism Services Limited); David Athwal; Francis sive Frankie Agius:

- i. In articles 18; 308; 309; 310(1)(a); 83A(1)(a); 48A; and 188 of the Criminal Code, Chapter 9 of the Laws of Malta;*
- ii. In article 18 of the Criminal Code, Chapter 9 of the Laws of Malta and in articles 15(4) and 45 of the Employment and Industrial Relations Act, Chapter 452 of the Laws of Malta;*
- iii. In article 18 of the Criminal Code, Chapter 9 of the Laws of Malta and in articles 23 and 51 of the Employment and Training Services Act, Chapter 343 of the Laws of Malta;*
- iv. In article 18 of the Criminal Code, Chapter 9 of the Laws of Malta and in regulations 3; 10 and 18 of the Employment Agencies Regulations, Legal Notice number 127/1995 as subsequently amended, Subsidiary Legislation 343.24 of the Laws of Malta;*
- v. In article 18 of the Criminal Code, Chapter 9 of the Laws of Malta and in article 77(e) of the Value Added Tax Act, Chapter 406 of the Laws of Malta;*
- vi. In articles 23B and 23C of the Criminal Code, Chapter 9 of the Laws of Malta;*

Against Francis sive Frankie Agius ONLY:

- i. In article 284 of the Criminal Code, Chapter 9 of the Laws of Malta;*

Against Raymond Bonavia (in his personal capacity and/or on behalf and in representation of Chrism Services Limited) ONLY:

- i. In article 18 of the Criminal Code, Chapter 9 of the Laws of Malta and in articles 10 and 76 of the Value Added Tax Act, Chapter 406 of the Laws of Malta;*
- ii. In article 18 of the Criminal Code, Chapter 9 of the Laws of Malta and in articles 77(a) and 77(b) of the Value Added Tax Act, Chapter 406 of the Laws of Malta;*
- iii. In article 13 of the Interpretation Act, Chapter 249 of the Laws of Malta; and*
- iv. In articles 49 and 50 of the Criminal Code, Chapter 9 of the Laws of Malta.”¹*

Having seen that the defendants had no objection for the case being tried summarily by this Court.

Having read the transcript of the evidence produced before this Court differently presided;

Having heard the witnesses produced by the Prosecution and by the defence;

Having heard the oral submissions;

Considered that:

Prosecuting Officer Angelo Gafa testified in some length about the investigation he carried out. Amongst other things he stated that:-

¹ A fol. 1083 and 1084

1. On the 28th March 2011, an investigation was launched by the Police into alleged corruption in connection with the recruitment of Pakistani nurses with the Maltese Government.
2. Defendants David Athwal, Raymond Bonavia and Frankie Agius (hereinafter referred to as Athwal, Bonavia and Agius) were arrested in connection with this investigation, namely that they were charging Pakistani nurses hefty sums of money, all of which was documented in an agreement signed by the nurses themselves.
3. After a number of the Pakistani nurses arrived in Malta, a certain Azra Zeeshan and Farzana Furree complained with the Ministry of Health about the conditions of their stay in Malta and also of the monies they were requested to pay by Chrism Services Limited (a company allegedly represented by Athwal and Bonavia).
4. It was alleged that when the Pakistani nurses arrived in Malta they were met at the airport by Athwal, Bonavia and Stephen Grech (hereinafter referred to as Grech), taken to Athwal's house in Qormi where there was also present Agius who presented them with rental agreements and they were requested to sign the same whereby they were also informed that apart from what was indicated in the agreement they also had to pay their share of expenses for rental fees, telephone, internet and television and a onetime payment for Wi-Fi connection.
5. On the 23rd March 2011, a certain Pakistani nurse Ahmed Feroze Chandio (hereinafter referred to as Feroze) and some of his colleagues asked Grech about the legitimacy of the contract they had signed and also questioned the receipts given to them. The following day Athwal, Bonavia, Agius and Grech went to Feroze's place and started shouting with his colleagues and harassing them because they were asking to have things in order. However Feroze was not there at the moment. So his friends called him and he went to his apartment where he found Agius who started shouting and swearing at him. As Feroze began to record what was happening on his mobile phone, Agius grabbed the phone and broke it on the floor. Agius picked up the pieces of the phone from the floor and took it with him.
6. On the 25th March 2011 it was reported that Feroze paid Athwal the sum of one thousand euro (€1000) in order for a friend of him to come to work as a nurse in Malta. However his friend was no longer interested in coming over to Malta and he requested a refund from Athwal. However according to Feroze, Athwal told him that he had spent all the money to bribe government officials, including the police to issue work permits. A certain Saima Shazhad also stated that Athwal had told them that the money requested was intended to bribe officials at the visa office, police department and health department so that they can come to work in Malta. Shazhad reported that Grech threatened her that if she was going to persist with her reports they were going to deport them.
7. The police spoke to other Pakistani nurses who stated that they had no complaints with regard to the accused and that they were fully aware of the conditions in the contract they had signed.
8. The police also interviewed another Pakistani nurse named Nazia Malik who reported threats from the Agius when she couldn't pay the amount agreed.
9. It transpired to the Police that no VAT receipts were being issued for the services rendered by Chrism Services Limited and that the same company was not registered with the VAT Department.
10. On the 2nd May 2011 the four accused were arrested and interrogated by the Police.

The Prosecution exhibited a number of agreements between Chrism Services Limited as represented by Bonavia, various nurses of Pakistani nationality and Bonavia in his own

personal capacity. The accused Bonavia, Athwal and Agius filed a copy of the original of these agreements. These agreements are found a fol. 221 to 311 of the acts. In these agreements it was agreed that the parties were terminating a pre-dated agreement and the nurses declared that they had been fully refunded of all sums paid to the Company on account of the services offered to them by the same Company. The parties also declared that they had no further claims or pretensions against each other.

Michael Deguara, Assistant Director (Human Resources) at the Ministry of Health, the Elderly and Community care, stated that on the 2nd February 2010 a call was issued for staff nurses to work with the Ministry, which call was open also for third county nationals. He stated that Bonavia, Athwal and Grech were bringing in the applications on behalf of persons of Pakistani origin. He stated that in February 2011 around three Pakistani nurses who had started working with the Ministry showed them some contracts that they signed with Chrism Services Limited and asked them whether they were regular. He stated that for applying for the job of a nurse there was a registration fee for the course of the nurses and midwives. The interviews for the engagement of these nurses were done through a selection board.

Feroze Ahmed Chandio, a Pakistani national working as a nurse in Malta, stated that he got to know that there was a recruitment of nurses in Malta from the internet and from Athwal who told him that he will take care of the paper work for him. He stated that he discussed the agreement with Chrism whereby he had to pay three thousand euro (€3000). After the selection process, he was selected and came over to Malta where he was met by the four accused at the airport. They were then taken to Athwal's house, had dinner and then they were handed the agreements which had no letterheads and no official stamp of a notary public. The witness stated that after he began to question the legality of the agreement the accused got angry and shouted at him. He stated that apart from the agreed three thousand euro (€3000) they were asked to pay eight five euro (€85) monthly as a service charge. He explained that he, together with the other nurses, had arranged for the interviews to take place via Skype. Whilst stating that he was given receipts for the sums he paid, he contested the legality of such receipts since they were not VAT receipts. He stated that at one time he had an argument with Athwal regarding the internet services which he was deeming a bit costly. However Athwal insisted that he had to pay what was agreed upon. Subsequently he asked Grech whether he could have the documents and the receipts officialised. The following day Bonavia, Agius and Grech went to his apartment where they found his friends Gulhmamed, Zahur and Muman. He arrived at the apartment after his friends phoned him and informed him that Grech, Bonavia and Agius were waiting for him. Agius started swearing. When he told him that he was going to report himn to the Police, Agius snatched his mobile phone and threw it on the floor and it was broken. Subsequently he and his friends were told that if they were going to cause trouble they will be thrown out and be sent back to their county. The following day he spoke to a friend of his who arranged an appointment for him with the Police Commissioner. After around two/three months he was contacted by Agius and Bonavia who told him that they were going to settle everything and terminated the contract. In fact they gave him back eight hundred euro (€800) which is the amount he paid according to the agreement.

Under cross-examination the witness stated that it was he that contacted Athwal back in Pakistan since he knew Athwal's wife who was also a nurse working in the hospital where he used to work. Athwal told him that he could help him with the documents. He confirmed that he had no problem with the sum he was requested to pay to facilitate his registration

as a nurse in Malta. He stated that he did not have any problem with the money he had to pay. His only problem was that he wanted the agreement to be in a legalised form.

Under cross-examination, during the sitting of the 29th January 2018, the witness stated that at the moment he was reading a Masters Degree in Ireland sponsored by the Ministry of Education. He was shown a contract marked as Document AF1 (a fol. 1135) in which he recognised his signature and also stated that he read it through before signing it. He also recognised his signature on Document AF 2 a fol. 1137 which is a power of attorney in favour of Chrism Services Limited. He explained that when he came over to Malta he had a problem because he had reservations about the format of the contract he signed and also with the receipts he received for the payments he made. He explained that he never had any problems with the payments and that now things are settled.

Joanne Hefney, Director Operations at the VAT Department, stated that the Department received an application for registration for VAT purposes by Chrism Services Limited on the 5th May 2011. It starting of business in the application form was indicated as 15th January 2011. However no economic activity was reported between the 1st January 2011 and 30th June 2011 and no activity was reported till 31st December 2011.

In cross-examination, the witness explained that the registration for VAT in this case was a late application since the business start date was indicated as 15th January 2011. For this shortcoming the company in question was fined hundred euro (€100) late registration administrative penalty. She also stated that in the minutes of the file it was stated that against the original contract another contract was drawn up whereby the original contract was cancelled. The fiscal receipts which had been issued by the company to its clients were returned to the company and the persons were paid back the amounts which they had paid. So no assessments were raised.

Saima Shazad stated that she has been in Malta working as a nurse since January 2011. She stated that she became aware of the job opportunity in Malta through the papers. She got in touch with Athwal whom she recognised in the court hall and she agreed to pay the sum of three thousand euro (€3000) as a fee to come over to Malta. She was selected to work as a nurse in Malta and hence she came over and she was met at the airport by Athwal, Bonavia and Grech. She stated that she had signed an agreement regarding the three thousand euro (€3000). However she also paid the house rent. Eventually she started having some problems because her freedom was at jeopardy because Athwal did not like it when they spoke to each other. At one point in time Grech phoned her and was angry as he got to know that she was going to leave the flat.

In cross-examination the witness was shown a document which was marked as Document SS1 (a fol. 1122) which she recognised as an employment agreement which she had signed in Pakistan. She also recognised her signature on a power of attorney in favour of Bonavia (Document SS2 a fol. 1123). After she was chosen to come to work as a nurse in Malta, she came to Malta and was given lodging. However she explained that they didn't know how many people were going to stay together but eventually everything was sorted out. She explained that she did not have any problems with the accused.

Veeda Kelvin stated that she has been working as a nurse in Malta since January 2011. She got to know of the job from the internet and from colleagues of hers back in Pakistan. The contact person was Athwal who requested some documentation and three thousand

euro (€3000) for the registration. She confirmed that she had signed an agreement and paid the first thousand euro (€1000) with her first salary cheque. Subsequently she paid other sums of money. She was staying in an apartment offered by Athwal, Bonavia and Agius. She stated that there was one occasion where she gave her mobile phone to Grech to phone Saima but she did not hear the conversation. She also stated that after some time she stopped paying rent. She claimed that she signed a document declaring that she had been refunded but actually she had not been given any money back as she had to compensate the defendants for leaving the apartment before the expiration date of the contract.

Under cross-examination the witness stated that all the payments made to the accused were agreed upon. She also stated that before signing the termination contract she had enough time to go to a lawyer but did not go. She explained that they were provided with television services, internet services and telephony. She stated that Athwal was present for the first interview which took place in La Hore and also presented her application here in Malta. A second interview was organised in a hotel in La Hore but they paid 500 Rupees equivalent to approximately four euro.

Dr. Teresianne Mifsud, in representation of Melita plc and Melita Mobile, confirmed a document exhibited a fol. 95 of the acts whereby it results that on the 2nd April 2011 a phone call was made from mobile number 99564755 to 77674984. She was also asked by the Prosecution whether contract number 101228171706 relating to Feroze with a customer number 1017859 had purchased a mobile handset with the said contract number. She stated that no mobile handset was purchased with the mentioned contract number. She also confirmed that on the 30th March 2011 the mentioned Feroze purchased a mobile phone for the amount of €229.95.

Gilbert Formosa, sales manager at Melita plc, stated that defendant Agius is a reseller of Melita who manages an outlet by the name of Top Shop in St. Paul's Bay. He stated that Feroze subscribed to a mobile phone plan of €15 and so he would benefit from a €100 reseller voucher. This means that Feroze chose a mobile phone of his wish and the seller claimed €100 back from Melita.

Under cross examination the witness stated that at the time they were doing a number of contracts for various Pakistani nurses. However Agius assumed personal responsibility for the monthly payment of the contract fees since Melita did not usually do contracts with third county nationals. The witness stated that normally Melita plc would ask for a deposit for its services, be they mobile, internet or television. However in this case, since Agius was acting as a surety, they did away with the deposit. He also stated that the Pakistani nurses paid very little from a bill of around €70,000. Melita plc tried to give a sort of discount but there still remained a balance to be paid as shown on Document GF2 a fol. 534. The witness stated that Agius tried to help out. After this default, Agius asked Melita to change the agreement by exonerating him from being a guarantor of the payments due by the nurses, and that each third country national undertakes a direct debit payment.

The witness explained how the mobile contract system worked in 2011. He explained that if A chose a mobile phone which costs one hundred and ninety euro (€190) Melita would give the reseller, in this case Agius, hundred euro (€100). In the case of default in the payments of the contract, Melita would claim the value of the handset from A. However in the case of the Pakistani nationals, it was Agius who entered into the contract with Melita and therefore if there was a default Melita would turn on Agius personally. The witness

explained that the mobiles in these cases were property of Agius. In case of default Melita claims back the value of the phone from Agius.

Victor Daniel, stated that he is a refugee in Malta and has been living here since 2008. He testified that a friend of his, a certain Asran Dejan, asked him to help her since she wanted to go to the Human Resources Department of the Ministry of Health since she had some problems with some people. However, even though he went with her to the said Department, he did not elaborate much of what the issue was. He also stated that he had a sister in Pakistan who was interested to come to Malta. So he spoke to Athwal and he informed him that it would cost her around three thousand euro (€3000) to bring her over here. Eventually he reported this to the Human Resources Department and they seemed that they were already aware of this circumstance.

The witness stated that after he accompanied Asran Dejan to the Human Resources Department, four people threatened her and also threatened him at his place of work to stay away from their business. He recognised three of those persons namely Bonavia, Agius and Grech. Athwal was also with the mentioned three however he was not present for the same sitting. Asked who spoke to him during this incident he said that only Agius addressed him whilst the others just stared.

In cross-examination the accused stated that he did not ask Athwal what services were included in the fee above mentioned.

Joseph Agius, a pastor of the Evangelical church, stated that a certain Nadia had told him that she and her friends were being threatened by Agius that if they don't pay the money owed they will be deported.

Noam Abdur, who works as a nurse in Malta, stated that he came to Malta using Athwal's services. He stated that on the 6th April 2011 there was an argument between Feroze and Athwal because Feroze was querying about some payments he made to Athwal since Athwal said that he used the money to bribe the police for clearance. Another incident happened on the 24th March 2011 when all four accused went to their flat and Agius started shouting and threatening them because Feroze reported him to the Ministry of Health. When Feroze told him that he will record him, Agius took his mobile and broke it on the floor and then left with the mobile.

He also explained that at the time he was helping two friends of his to come to work as nurses in Malta. Apparently these friends had already spoken to Athwal who asked them two thousand euro (€2000) to start the process. When Athwal got to know that he was helping them out he threatened him that he can deport him back to Pakistan.

The witness stated that he paid two thousand euro (€2000) to Athwal for coming here in Malta and further amounts for the rent. However he did not get any refund even if the papers he eventually signed say that he had been refunded. In cross-examination he explained that he didn't get any actual refund but this only because there was some sort of set-off for the unpaid rent which was due.

Connie Azzopardi, a representative of the Director General of the VAT Department, exhibited a tax return of Chrism Services Limited dated 1st January 2011 till 30th June 2011 submitted by the company on the 15th August 2011 (Document CA 1 a fol. 612). She also

exhibited the registration of the same company with the VAT Department (Document CA 2 a fol. 613).

Dr. Elizabeth Borg, a representative of the Department for Industrial and Employment Relations, stated the Department had issued an employment agency license to Raymond Bonavia Company Limited registered at 39, Constitution Street, Mosta on the 1st August 2010 which was valid till 31st July 2011. However the Department never issued a license in favour of Chrism Services Limited.

Nazia Malik, a Pakistani nurse working in Malta, stated that in January 2011 she arrived to work in Malta with the assistance of the services offered by Athwal. She stated that she had an agreement that she had to pay by instalments from the salary she received each month. However on the third month she asked Athwal to pay him the following month. He told her to speak to Agius. However when Agius went to their flat he started shouting and speaking dirty words to her. So she went to the report him to the Police although she forgave him.

In cross-examination she stated that the contract she signed upon her arrival in Malta was already given to her when she was still in Pakistan.

Mohammed Zahoor, a Pakistani nurse living in Malta, stated he came to Malta with the assistance of the services offered by Athwal. Upon their arrival in Malta they were taken to Athwal's home for supper and then to a flat in Qormi. However there were some problems with them living with each other and so they spoke to Athwal who arranged for some flat mates to move to Birkirkara.

A number of other nurses testified. However these did not have any negative encounter with the defendants. Most of them testified that they paid for what they were promised and that they are still working as nurses in Malta.

Dennis Tanti, a former Assistant Director responsible for nursing and midwifery between 2008 and 2012, stated that he was aware that there were carried out interviews via videoconferencing with Pakistani nurses by the Director responsible for nursing services, Jesmond Sharples. He stated that the first interview was conducted from the house of Bonavia, whilst the second interview was carried out at the Department of Health. He stated that he was excluded from the selection process of these Pakistani nurses without any reason.

The witness stated that on the first day of their employment, the forty seven nurses went to the Department with Agius, Bonavia and Grech. He also stated that eventually at least three female nurses asked to be paid their salaries before. Eventually such a request was made by all the Pakistani nurses and it was acceded to.

Jesmond Sharples, former director of Nursing Services from 2002 till 2016, stated that following the migration from St. Luke's Hospital to Mater Dei there was the need of recruiting more nurses. So a decision was taken at Ministry level to open recruitment for both EU nationals and third country nationals. He explained that Athwal and Bonavia were seeking information about the process to be able to complete an application process. The process was a bit complicated because they had to ensure the level of competence to be able to practise as a nurse in Malta and also since there was no country representing

Pakistani nationals in Malta they had to obtain a Visa from another country. Eventually he was part of two processes of interviewing the Pakistani nurses who had applied to come over to work in Malta. The first interview was for the purpose of registration and the second one was for the purpose of employment. The first interview via videoconference took place in Mosta since there was an issue with the Mater Dei video conference since there was a double booking of the facility. He explained that Bonavia had offered his premises to be able to conduct the first video conference. However he did not have any contact with Bonavia since it was someone else who indicated that they can use Bonavia's premises. He also stated that Bonavia had no role whatsoever in the interviews. He explained that a good number of those interviewed did not pass the interview. After the selection process was finalized, the chosen nurses came to Malta and began working.

The witness stated that he knew Athwal and Bonavia as the persons who were providing the services for the logistics for the Pakistani nurses to come over to Malta.

Edward Engerer, an accountant and auditor, explained that around 2014/2015 Agius and Bonavia went to his office whereby they explained to him that they intended to provide personnel to the Ministry of Health and therefore they sought advice on how to do this in a regular way. He advised them that the company needed a tax number and a VAT number. At the time Chrism Services Limited was already set up. He stated that at one point the VAT Department asked for all documentation of the company but as far as he is aware they never got back with any conclusion. However upon suggestion by the defence, the witness remembered that in actual fact the outcome of the investigation was in the sense that no VAT was due.

Considered that:

It results that the four accused released statements to the police and even submitted documents during their interrogation. These interrogations took place when there existed no right to consult a lawyer of one's choice during interrogation. In fact this amendment was introduced by Act LI of 2016.

The legal position today is that once the accused did not have the right to access a lawyer during their interrogation, then the same statements can be prejudicial to them. Hence the Court cannot accept such statements as admissible proof in these proceedings and is not taking cognizance of the same statements.

In a nutshell, the circumstances of this case are as follows:

1. The Ministry of Health had issued a call for applications for nurses to work with the same Ministry due to a shortage of staff following the migration from St. Luke's Hospital to Mater Dei Hospital. This call for applications was open to EU nationals and to Third Country Nationals;
2. A number of Pakistani nurses came to know of this opportunity and Athwal and Bonavia made arrangements to provide the necessary services in order for these Pakistani nurses to be registered and employed in Malta;
3. The Pakistani nurses that were interested in coming to work in Malta signed an agreement with Deluxe Company Limited whilst they were still in Pakistan and also issued a power of attorney in favour of Chrism Services Limited/Bonavia to facilitate the process should they be selected;

4. Two skype interviews for registration and selection took place which were organised by officials at the Ministry of Health whereby a number of those who applied were selected for the post;
5. Eventually those selected began to arrive in Malta with the assistance of Athwal and Bonavia. Upon their arrival in Malta the nurses signed another agreement which replaced the one they had previously signed in Pakistan. This second agreement was signed with Chrism Services Limited. However the terms and conditions remained the same. They were hosted in apartments offered to them against payment. They were also given mobile services, internet services and tv services;
6. A certain Feroze was not happy with the format of the contract he signed in Malta because according to him it needed more formalisation. He was not also happy with the receipts he was receiving from the accused since these were not official receipts;
7. Feroze spoke to a friend of his who arranged an appointment for him with the Commissioner of Police;
8. From then on a fully fledged investigation was carried out into the activity carried out by the four accused in bringing the Pakistani nurses to work in Malta;
9. Eventually the Pakistani nurses signed a termination agreement with Chrism Services Limited and Bonavia whereby they declared that they had been fully refunded of any payments they did.

The first charge and second charge levelled against all accused

The first and second charge relate to articles 18, 251 and 251A of the Criminal Code as per note of the Attorney General dated 20th July 2017.

Article 251 of the Criminal Code relates to the offence of private violence whilst article 251A of the Criminal Code relates to the offence of harassment.

At the time of the alleged offence article 251 of the Criminal Code read as follows:

“251.(1) Whosoever shall use violence in order to compel another person to do, suffer or omit anything to diminish such other person’s abilities or to isolate that person, or to restrict access to money, education or employment shall, on conviction, be liable to the punishment laid down in sub-article (1) of the last preceding article.

(2) Where the offender shall have attained his end, he shall be liable to the punishment laid down in sub-article (2) of the last preceding article.”

Article 251A of the Criminal Code as it was at the time of the alleged offence stated:

“(1) A person who pursues a course of conduct:

(a) which amounts to harassment of another person, and

(b) which he knows or ought to know amounts to harassment of such other person, shall be guilty of an offence under this article.

(2) For the purpose of this article, the person whose course of conduct is in question ought to know that it amounts to harassment of another person if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other person.

(3) It is a defence for a person charged with an offence under this article to show that

(a) his course of conduct was pursued for the purpose of preventing or detecting crime, or

(b) his course of conduct was pursued under any enactment, regulation or rule, or to comply with any condition or requirement imposed by any person under any enactment or

(c) in the particular circumstances the pursuit of the course of conduct was reasonable.”

From an analysis of the evidence submitted by the Prosecution there was only one significant incident which involved some form of aggression and this with reference to the incident when Agius took hold of the mobile used by Feroze and broke it on the floor. There are also two other incidents, one involving a certain Victor Daniel who stated that the accused went to his place of work and warned him not to meddle with their business and another incident involving a certain Nazia Malik who asked Agius whether she could postpone the monthly payment and Agius got angry and used foul language in her regards.

The Court observes that these were separate and distinct incidents concerning different persons i.e. Feroze, Daniel and Malik. The Court also observes that the main actor in these incidents was Agius. During the oral submissions the defence submitted that article 251 of the Criminal Code cannot stand alone as an offence and it made reference to various authors who share this opinion. According to the defence, article 251 is a fill in when the action does not fall under any other offence contemplated under the Criminal Code. After taking into consideration the in depth arguments by the defence, the Court is in agreement with the views shared by various authors that the offence of private violence is a subsidiary offence. The action of Agius in grabbing and breaking the mobile against the floor cannot amount to the offence of private violence although it can amount to other offences. Moreover at the time of the offence, contrary to how the law has changed by Act XIII of 2018, only physical violence was mentioned in the provision of the law. In actual fact no physical violence was committed on Feroze because no proof was tendered in this regard.

With regards to the second charge, the Court examined whether any of the accused, or all of them, can be found guilty under section 251A of the Criminal Code. The Court notes that in various judgements² it was emphasised that the offence of harassment needs a course of conduct. In these proceedings no course of conduct was proven since the incidents were distinct in regards to different persons. Hence the offence does not subsist with regards to no one of the four accused.

The third charge levelled against Raymond Bonavia in his personal capacity and for and on behalf and in representation of Chrism Services Limited, David Athwal and Francis sive Frankie Agius

The third charge relates to the crime of fraud in terms of articles 308 and 309 of the Criminal Code. It has been proved beyond reasonable doubt that all the Pakistani nurses who came to Malta knew well beforehand the expenses that they had to meet out for the services offered to them by the accused Bonavia, Athwal and Agius. There is no proof that the nurses have been promised something which in return did not materialise. In the agreement, which was originally signed in Pakistan and the one which replaced it upon their arrival in Malta, there is nothing fictitious. **In these contracts it was stipulated that the particular nurse has requested the company³ to be its representative in Malta, to co-ordinate, hold meetings, pay all fees and expenses, directly and indirectly involved in the process of recruiting,**

² **Il-Pulizija vs Julian Cesare** (Court of Appeal 12/10/2010), **Il-Pulizija vs Raymond Parnis** (Court of Appeal 24/04/2009), **Il-Pulizija vs Massimo Tivisini** (Court of Appeal 27/02/2009)

³ In the first agreement the company was Deluxe Recruiting Services Company Limited Malta (vide examples of such contracts a fol. 1122 and 1135). In the second agreement, which replaced the first, the company was Chrism Services Company Limited (vide example of such contract a fol 424).

registering, fill, evaluate forms and applications, to lead to the employment of full-time nurses in the Republic of Malta. It was also agreed and accepted that the company paid all the expenses as to their engagement in Malta as nurses. It was further agreed that upon being registered and accepted to work in Malta, the particular nurse will owe the company the sum of three thousand euro (€3000) from his/her wages, without interest, as follows:

- A. From the first wage 600 Euro;
- B. From the second till the 13th wage (that is 12 payments) of 200 euro each = 2400 Euro.

The nurses also authorized the company to furnish them with a sharing apartment for residence against a monthly payment of 120 Euro excluding water and electricity bills. However should the nurses find alternative accommodation they will be free to do so. It was also agreed that each nurse pays a management fee from the 13th month till the termination of his employment of 85 Euro monthly.

The Court cannot decipher any formal or material element of the offences mentioned above. No nurse who was produced as a witness by the Prosecution testified that she or he was in any way defrauded. The only issue with one of the nurses about the agreement was that it had no letterhead and it was not formalised in front of a notary. This certainly does not render the agreement fraudulent in nature. Hence the accused will be acquitted of the third charge.

The fourth and fifth charges levelled against Raymond Bonavia in his personal capacity and for and on behalf and in representation of Chrism Services Limited, David Athwal and Francis sive Frankie Agius

The fourth and fifth charges relate to the promotion of an organization of two or more persons with a view to commit criminal offences (article 83A (1) (a) of the Criminal Code) and to the offence of conspiracy (article 48A of the Criminal Code).

In regards to the offence of conspiracy the Court makes reference to a recent judgement in the names **Il-Pulizija vs Alfred Bugeja (Court of Appeal 20th March 2019)** whereby it was stated:

*“Illi dan maghdud, indubbjament ir-reat huwa ikkunsmat hekk kif ikun hemm il-ftehim dwar il-mezzi li ghandhom jigu adoperati ai fini biex jigi kommess id-delitt. Issa ghalkemm l-appellant jishaq illi huwa qatt ma kellu l-intenzjoni igib fis-sehh dan il-ftehim u cioe’ qatt ma kellu l-intenzjoni ighin lil Camilleri u lil Muscat sabiex tigi importata d-droga f’Malta, madanakollu huwa accetta li jkun parti f’din il-kongura tant illi anke offriehom lil huh Albert Bugeja bhala dik il-persuna li kellha fizikament issiefer biex takkwista d-droga, ghalkemm f’wahda mid-diversi verzonijiet li jaghti jishaq illi huwa qatt ma ftiehem ma’ huh f’dan is-sens. Illi allura l-fatt wahdu li l-appellant accetta li jkun parti minn din il-kongura kriminali, ghalkemm ma kellux l-intenzjoni igib il-pjan miftiehem fis-sehh huwa wahdu bizzejjed sabiex r-reat ikun ikkunsmat. L-Antolisei difatti ighid hekk: **“Trattandosi di un reato tipicamente permanente, la consumazione si protrae fino alla cessazione dello stato antigiuridico, e cioe’ fino a quando si verifica lo scoglimento dell’associazione.”** L-accettazzjoni minn naha ta’ l-appellant li jaghmel parti minn dan il-ftehim kriminuz fejn gie infassal sahansitra il-modus operandi ghat-twettiq tar-reat, wassal ghal konsumazzjoni tad-delitt bid-delitt jibqa’ fis-sehh sal-mument illi jigi xjolt il-ftehim ghal xi raguni jew ohra. Ikompli ighid hekk il-gurista Antolisei: **“Il dolo consiste nella volonta di entrare a far parte di un’associazione, avendo lo scopo di commettere delitti una volta fatto ingresso nell’associazione, pero’, il reato e’ consumato anche per il partecipe che poi se ne dissocia, recidendo i legami con il resto del***

sodalizio."⁴ Illi is-sentenza li dahlet funditus fl-elementi tar-reat ta' l-assożjazzjoni hija **Ir-Repubblika ta' Malta vs Godfrey Ellul**⁵, l-Qorti, ikkowitzat awturi u guriprudenza meta saħħet illi l-prova tal-ftehim tista' tirrizulta minn inferenzi li johorgu mill-attivita kriminali li ssegwi dan il-patt kriminuz. Izda mhux biss, ghaliex jistghu jipprezentaw rwiehom kazijiet fejn dak pattwit ma jkunx gie attwat ghal xi raguni kemm indipendenti mill-volonta tal-malviventi, kif ukoll ghal motivi ohra li jistghu iwassluhom biex jiddesistu mill-agir kriminali b'mod volontarju. F' dawn il-kazijiet ir-reat ta' l-assożjazzjoni xorta wahda jissussisti bl-att materjali allura jkun il-ftehim milhuq bejn tnejn jew aktar: "**F'Archbold's Criminal Pleading, Evidence and Practice 2003 naqraw: "The essence of conspiracy is the agreement. When two or more agree to carry their criminal scheme into effect, the very plot is the criminal act itself: Mulcahy v. R. (1868) L.R. 3 H.L. 306 at 317; R. v. Warburton (1870) L.R. 1 C.C.R. 274; R. v. Tibbits and Windust [1902] 1 K.B. 77 at 89; R. v. Meyrick and Ribuffi, 21 Cr.App.R. 94, CCA. Nothing need be done in pursuit of the agreement: O'Connell v. R. (1844) 5 St.Tr.(N.S.) 1. " "The agreement may be proved in the usual way or by proving circumstances from which the jury may presume it: R. v. Parsons (1763) 1 W.Bl. 392; R. v. Murphy (1837) 8 C. & P. 297. Proof of the existence of a conspiracy is generally a "matter of inference, deduced from certain criminal acts of the parties accused, done in pursuance of an apparent criminal purpose in common between them": R. v. Brisac (1803) 4 East 164 at 171, cited with approval in Mulcahy v. R. (1868) L.R. 3 H.L. 306 at 317."**

After evaluating all the evidence submitted by the Prosecution, the Court reiterates its arguments with regards to the third charge above. There is absolutely no proof that the accused were promoting an organization with a view to commit a criminal offence. Hence even the charge of conspiracy, in the circumstances, does not hold water.

The sixth, seventh, eighth and ninth charge levelled against Raymond Bonavia in his personal capacity and for and on behalf of Chrism Services Limited, David Athwal and Francis sive Frankie Agius

The sixth charge relates to the deduction from the wages of an employee as per article 15 (4) of the Employment and Industrial Relations Act which reads as follows:

*"Deductions in the form of direct or indirect payments for the purpose of obtaining or retaining employment shall not be made from the wages of an employee **by an employer, or by any intermediary or labour contractor or recruiter.**"*

So in order for this offence to subsist, the deductions have to be made by **any employer, or by any intermediary or labour contractor or recruiter**. It was established that Chrism Services Limited acted as an intermediary. In the opinion of the Court the agreement entered into by each and every nurse gave rise to this offence. What was agreed in actual fact was that the payment of the fees which were due to the Company were indirectly deducted from the wages of the nurses. It was explained how the nurses used to countersign the payment cheques in favour of Athwal to be paid what was due. It may be that in spite of the advice sought by Bonavia and Athwal, they were either given the wrong advice or else they had already concluded the agreements with the Pakistani nurses. However the Court notes that according to article 45 of Chapter 452 indicated by the Attorney General, it transpires that the penalty for contravening the provisions of the same Act **are applicable only in relation to "employers"**.

⁴ Manuale di Diritto Penale Parte Speciale II Capitolo IX – Reati Contro l'Ordine Pubblico. 149.

⁵ Court of Criminal Appeal (Superior) 17th May 2005

No mention is made in the penalties provision to intermediaries. As a matter of fact article 45 (2) reads as follows:

“(2) Where any employer is convicted of -

(a) having failed to pay wages at not less than the rate applicable in accordance with a recognised condition of employment as defined in Part III of this Act or with a contract of service whichever shall be the higher, or

(b) having made any illegal deduction or inflicted any fine other than those specifically permitted by article 19, or....”

None of the accused were the employers of the nurses in question. Hence it seems that there is a *lacuna* in the law where if an intermediary contravenes any provision of Chapter 452 there is no corresponding penalty. Hence the Court cannot impose any sanction upon the accused.

With regards to the seventh charge this relates to the carrying on of an employment agency/business without a licence granted by the Director of Industrial and Employment Relations in terms of article 23 of the Employment and Training Services Act (Chapter 343). From the acts it results that the active participants in the co-ordination of the eventual employment of the Pakistani nurses were Athwal and Bonavia. Hence this charge does not subsist with regards to Agius.

From the evidence submitted it results that Chrism Services Limited did not hold a licence of an employment agency, although Bonavia had a licence but which related to another company. However from the Memorandum and Articles of Chrism Services Limited it does not result that Bonavia was a director of Chrism.⁶ However he was a mandatory of Chrism and therefore he was the person responsible for its activities here in Malta.⁷ Hence it results that Bonavia, as mandatory of Chrism, and Athwal were in breach of article 23 of Chapter 343 of the Laws of Malta. **Hence the Court will be finding guilt in Bonavia, on behalf and in representative of Chrism Services Limited and Athwal guilty of the seventh charge. The relative penalty for this charge is a fine (multa) of not less than forty-six euro and fifty-nine cents (€46.59) and not more than nine hundred and thirty-one euro and seventy-five cents (€931.75).**⁸

With regards to the eight charge this relates to Regulation 3, 10 and 18 of the Employment Agencies Regulations (Subsidiary Legislation 343.24). Basically Regulation 3 lists down the requirements for holding an employment agency. Regulation 10 stipulates:

(1) No payments or charges shall be demanded or levied on any applicant for employment in consideration of such employment or in consideration of registration therefor.

(2) No deductions shall be made from the wages of any employee for any services rendered by an employment agency or employment business.”

From the evidence given by Inspector Gafa it results that when Michael Deguara, Assistant Director Human Resources within the Ministry of Health, sought advice whether the accused could ask payment for the services rendered he was advised by the Ministry's legal office that there was nothing illegal in asking for administrative payments in consideration of recruitment related services.⁹ However it transpires that the law expressly prohibits this in Regulation 10 (1). **However the Court is of the opinion that the offence subsists only in relation to**

⁶ A fol. 382 *et seq.*

⁷ Vide power of attorney a fol. 377 by Chrism Services Limited to Raymond Bonavia

⁸ Article 51 of Chapter 343 of the Laws of Malta

⁹ A fol. 27

Athwal and Bonavia. Agius had nothing to do with the employment agreement. The Courts however also notes that any payments made by the Pakistani nurses were fully refunded. According to Regulation 18 of the mentioned Subsidiary Legislation “*Any person who contravenes any provision of these regulations shall be guilty of an offence and shall on conviction be liable to a fine (multa) of not less than one hundred and sixteen euros and forty-seven cents (116.47) and not more than two thousand and three hundred and twenty-nine euros and thirty-seven cents (2,329.37), provided that when a person is convicted of having received any payment from any applicant for employment or of having made any deductions from the wages due to an employee in consideration of any services provided by an employment agency or employment business, the Court shall in determining the penalty, take into consideration any refund made by such person to the applicant for employment of any payment received or deduction made.*”

With regards to the ninth charge the Attorney General indicated article 77 (e) of Chapter 406 of the Laws of Malta. This article relates to when a person fails to provide or produce a tax or other invoice or document as and when required by article 50, 51 or 52 or provides any such tax or other invoice or document which is incorrect or misleading in any material respect or fails to provide to the Commissioner, without any valid reason, all copies of any used or unused manual fiscal receipts where required by the Commissioner. The Court is of the opinion that no evidence proved this offence. On the contrary Joanne Hefney, in representation of the VAT Department, testified that although Chrism Services Limited filed a late application for registration there was no issues raised about its activities or any documents which needed to be submitted vis-à-vis VAT computations.

The tenth, eleventh, twelfth and thirteenth charge levelled against Raymond Bonavia in his personal capacity and for and on behalf and in representation of Chrism Services Limited

The tenth charge relates to articles 10 and 76 of Chapter 406 of the Laws of Malta. Article 10 makes it an offence for a taxable person established in Malta not to register with the VAT Department by not later than thirty days from the date on which he makes a supply for consideration in Malta other than an exempt without credit supply. From the evidence submitted by Joanne Hefney it results that there was a VAT investigation but there was no issue of any VAT not paid up. As a matter of fact the only issue was that there was a later registration for which an administrative fine was imposed upon Chrism. The defence made reference to the case **Robert Ciantar vs Onorevoli Prim Ministru** (Constitutional Court 30th September 2016) whereby it was established that finding a person guilty of an offence when there was already imposed an administrative fine for the same offence is a breach of the principle of *ne bis in idem*. The Court reviewed the judgement cited by the defence. From a reading of the same judgement it results that the facts of the case were similar but not identical. However in the present case it was established that the VAT Department imposed an administrative fine of one hundred euro (€100)¹⁰ prior to the commencement of these proceedings. Although the administrative fine was not a hefty one, this Court is still of the opinion that once the administrative authority chose to impose an administrative fine then it cannot proceed to criminally charge the same persons upon the same offence.

Hence the Court is not finding guilt in the accused in his personal capacity or otherwise with regards to this particular charge.

¹⁰ Testimony of Joanne Hefney a fol. 1141

The eleventh and twelfth charges relate to articles 77 (a) and 77 (b) of Chapter 406 which read as follows:

“77. Any person who -

(a) knowingly fails to account for any taxable supply or any intra-community acquisition made by him in the records, documents and accounts required by this Act or any regulations made under this Act;

(b) gives any return, statement or information required for any of the purposes of this Act which he knows to be incorrect or misleading in any material respect;

...

shall be guilty of an offence and shall, on conviction, be liable -

...

(ii) to a fine (multa) of not less than seven hundred euro (€700) and not exceeding three thousand five hundred euro (€3,500) for an offence under the other paragraphs, and in addition, for any offence as above referred to in all paragraphs, except for paragraph (p), where tax amounting to more than one hundred euro (€100) would be endangered, to a further fine (multa) equal to two times the endangered tax or to imprisonment of not more than six months or to both such fines and imprisonment:

Provided that, the two times fine (multa) for the endangered tax shall in no case be less than one thousand euro (€1,000).”

These charges relate to the date of the 15th August 2011 and the preceding days or months. The witness produced by the Prosecution, namely Joanne Hefney stated that Chrism had filed its tax returns and that there was no issue with the filing of these returns. Hence these charges were in no way proven.

The thirteenth charge relates to the offence of knowingly making a false declaration. This charge comes after three charges dealing with VAT issues. So it is presumingly connected to VAT related documents. However in this particular case the Attorney General in his Note did not make any reference to any article of the law which could give rise to this particular charge. Hence the Court is not going to take cognizance of the thirteenth charge.

The fourteenth charge

Charge number fourteen relates only to Agius for having on the 24th March 2011 committed theft of a mobile phone to the prejudice of Feroze and this in terms of article 284 of the Criminal Code.

From the testimony of Feroze and of Gilbert Formosa (Melita representative) it was established that when Feroze subscribed to a 24 month contract with Melita he was given a reseller voucher with which he bought the phone in question.¹¹ Therefore he was the owner of the phone. It is true that Agius was acting as a surety for the fulfilment of his obligations with Melita, however the ownership of the mobile was that of Feroze. Hence, when Agius grabbed Feroze's phone and broke it against the floor he was damaging the property of a third party. Subsequently Agius took the damaged mobile. The defence submits that the offence could not subsist since the “*animo di farne lucro*” is missing and that the offence of theft cannot feature when one takes something because he is angry or out of revenge. The Court does not envisage the offence of theft here because it is clear that Agius was acting like he did because he was of the opinion

¹¹ Vide reseller voucher a fol. 483

that the mobile was his since he was making good for the nurses' default of payments. In fact in his testimony Feroze stated that during this incident Agius stated *"Then he snatched my mobile phone and he threw it on the floor and was broken. He said this is my mobile and I gave you the present and he was getting more angry."* This behaviour might possibly give rise to the offence of pretended rights and also to wilful damage. However not to the offence of theft.

Finally Bonavia is also accused of being a recidivist in terms of article 49 and 50 of the Criminal Code. The Prosecution exhibited a judgement which can be found a fol. 61 (Document AG16) whereby Bonavia was fined four hundred and sixty six euro (€466). However the defence argued that the Prosecution did not prove whether this fine was paid and hence the Court cannot establish from when the five years began to run in terms of article 50 of the Criminal Code. Reference is made to the judgement **The Police vs Alexander Scudamore** (Court of Appeal 12/12/17) whereby the Court stated that article 50 of the Criminal Code is not applicable where there is no evidence that the fine had been paid *"Kwantu għall-aggravju li jirrigwarda r-recidiva, l-appellant għandu raġun. Ma jirriżultax mill-atti li huwa ħallas il-multa ta' €175 inflitta bis-sentenza li permezz tagħha giet attribwita lilu r-recidiva. Konsegwentement l-artikolu 50 tal-Kodiċi Kriminali mhux applikabbli."*

Hence, the Court is finding **Bonavia on behalf and in representation of Chrism Services Limited and Athwal guilty** of the following charges:

1. For carrying out an employment agency/business without a license granted by the Director of Industrial and Employment Relations (charge number seven in terms of article 23 of Chapter 343 of the Laws of Malta);
2. For demanding payments for employment in consideration of such employment (charge number 8 in terms of Regulations 3 and 10 of Subsidiary Legislation 343.24)

The relative penalty for these offences is a fine (multa). For the purposes of punishment the Court is taking into consideration all the circumstances of the case, in particular the fact that the Pakistani nurses were refunded what they paid to the accused for coming over to work in Malta and the fact that the Bonavia, Athwal and Agius have been deprived of a considerable sum of money due to the freezing order for a number of years.

DECIDE

Hence, the Court, after seeing section 18 of the Criminal Code, section 23 of Chapter 343 of the Laws of Malta and Regulations 3 and 10 of Subsidiary Legislation 343.24, declares:

1. **Raymond Bonavia on behalf and in representation of Chrism Services Limited and David Athwal guilty of the seventh and eight charge and condemns them to the payment of a fine (multa) of two hundred euro (€200) each whilst declaring them not guilty of all the other charges and hence acquits them from the same charges.**
2. **Raymond Bonavia not guilty of all the charges levelled against him personally and hence acquits him from the same charges.**
3. **Stephen James Grech and Frankie sive Francis Agius not guilty of all the charges levelled against them and acquits them from the same charges.**

Finally the Court is hereby revoking the freezing order issued on the 1st March 2012¹² as varied by a decree dated 11th June 2012¹³ and rejects the request made by the Prosecution to apply *mutatis mutandis* article 5 of Chapter 373 of the Laws of Malta as stipulated in Article 23A (2) of the Criminal Code.

**Dr. Charmaine Galea
Magistrate**

**Diane Gatt
Deputy Registrar**

¹² A fol. 313

¹³ A fol. 448