



Criminal Court

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

Admission No. 4/2020

The Republic of Malta

Vs

Abdimalik Omar Ismail

Today the 1st October, 2020

The Court,

Having seen the charges brought against the accused Abdimalik Omar Ismail, holder of Maltese Identity Card number 0110433A before the Court of Magistrates (Malta), as a Court of Criminal Inquiry wherein he is charged with having on the 16th August, 2020 at around quarter to five in the morning (0445hrs) and the previous hours in Santa Rita Steps, San Giljan and other localities in these Islands :-

1. Produced, sold or otherwise dealt with the whole or any portion of the plant Cannabis; Section 8(e) of Chapter 101 of the Laws of Malta;
2. Had in his possession the whole or any portion of the plant Cannabis, which drug was found under circumstances denoting that it was not intended for his personal use; Section 8(d) of Chapter 101 of the Laws of Malta;

3. Committed these offences in, or within 100 meters of the perimeter of, a school, youth club or centre, or such other place where young people habitually meet; Section 22(2) of chapter 101 of the Laws of Malta;
4. By means of any 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 pretence 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 to the detriment of Iker Ramos Bilbao and / or other persons; Articles 308 and 310 (1)(c) of Chapter 9 of the Laws of Malta;
5. Made any other fraudulent gain to the detriment of Iker Rarmos Bilbao and / or other persons; Articles 309 and 310 (1)(c) of Chapter 9 of the Laws of Malta.

The Court was requested requested to apply Section 533(1) of Chapter 9 of the Laws of Malta, as regards to the expenses incurred by the Court appointed experts.

Having seen the records of the proceedings before the Court of Magistrates where it was noted that the prosecution retracted the first and the third charge; The Court therefore abstains from taking further cognicance of the first (1) and third (3) charge;

Having seen the records of the proceedings before the Court of Magistrates of the 17th August, 2020, whereby the accused registered a plea of guilt to all charges brought against him and confirmed such guilty plea after that Court solemnly warned him of the legal

consequences of the said admission and allowed him a period of time for him to consider his decision;

Having seen the note of the Attorney General of the 15th September 2020, whereby it was declared that:

1. Whereas he has received the acts of the Inquiry in the names the Police vs Abdimalik Omar Ismail on the nineteenth (19) day of the month of August of the year two thousand and twenty (2020), and this after that the Court of Magistrates (Malta) as a Court of Criminal Inquiry ordered that the Acts of the said Inquiry be sent to the Attorney General in terms of Article 392B(1)(a) of Chapter IX of the Laws of Malta, and this in view of the fact that the person charged, Abdimalik Omar Ismail, in the sitting held on the seventeenth (17) day of the month of August of the year two thousand and twenty (2020) confirmed his guilty plea with regards to the second, fourth and fifth charge, after the first and third charge were retracted by the Prosecution, when by virtue of the order by the Attorney General dated 17th August, 2020 the accused is to be charged before the Criminal Court.

2. Whereas, in terms of the proviso to Article 392B(2) of Chapter 9 of the Laws of Malta, the charges proffered against the said Abdimalik Omar Ismail before the Court of Magistrates (Malta) as a Court of Criminal Inquiry, to which the accused has registered the aforementioned guilty plea, should be considered as a Bill of Indictment for all the purposes and effects of law.

3. And whereas, in terms of article 392B(4) of Chapter 9 of the Laws of Malta, the Attorney General requests that he brings forward evidence relevant for the purposes of punishment;

Having seen the decree of this Court of the 15th September, 2020 whereby it appointed the case for hearing for the 23rd September, 2020;

Considered:

That following the declaration of guilt filed by the accused before the Court of Magistrates on the 17th August, 2020 as to the second, fourth and fifth charge which admission of guilt was reaffirmed by him after being solemnly warned about the legal consequences of his plea and after having been given due time according to law to re-consider his plea, declares the accused Abdimalik Omar Ismail guilty of having on the 16th August, 2020 at around quarter to five in the morning (0445hrs) and the previous hours in Santa Rita Steps, San Giljan and other localities in these Islands :-

1. Had in his possession the whole or any portion of the plant Cannabis, which drug was found under circumstances denoting that it was not intended for his personal use; Section 8(d) of Chapter 101 of the Laws of Malta;
2. By means of any 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 pretence 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 to the detriment of Iker Ramos Bilbao and / or other persons; Articles 308 and 310 (1)(c) of Chapter 9 of the Laws of Malta;
3. Made any other fraudulent gain to the detriment of Iker Rarmos Bilbao and / or other persons; Articles 309 and 310 (1)(c) of Chapter 9 of the Laws of Malta.

Having seen the acts of the proceedings before the Court of Magistrates and those before this Court;

Having seen the updated conduct sheet of the accused;

Having heard submissions by defence counsel and counsel for the Prosecution;

The Court, in this particular case, after having seen articles 8(d), 22(2)(a)(ii) of Chapter 101 of the Laws of Malta and 17(h), 308, 309 and 310(1)(c) of Chapter 9 of the Laws of Malta; Having noted that the prosecution declared that the amount of €30 was returned to Ramos Bilbao; condemns the accused to a term of imprisonment of twelve (12) months and to a fine (multa) of four hundred and seventy Euros (€470.00).

Since no expenses were incurred in terms of article 533 of Chapter 9, the Court abstains for taking further cognicance of the request;

Moreover, orders the forfeiture in favor of the Government of Malta of all the property involved in the said crime of which he has been found guilty.

Finally, orders the destruction of all the objects exhibited in Court, 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 and objects are required in evidence against third parties.