



## **Court of Criminal Appeal**

Hon. Justice Dr. Giovanni M Grixti LL.M., LL.D

Appeal Nr. 235/2018

**Il-Pulizija**

**vs**

**Jean Pierre Pace**

Today 24th February, 2021

The Court;

Having seen the charges brought against Jean Pierre Pace, holder of identity card number 10616L before the courts of Magistrates (Malta) as a Court of Criminal Judicature which charges were proffered in the Maltese language as follows: “Talli nhar it-13/3/2018 fi Triq Guzeppi Lanzon, Marsascula, (1) Insulentajt jew heddidt lill-Moira Pace jew jekk kont provokat, ingurjajt b’mod li hrigt mill-limitu tal-provokazzjoni u (2) gibt

ruhek b'mod li kont taf jew missek kont taf li ser taghti fastidju lil Moira Pace”;

Having seen the judgement of the Court of Magistrates of the 11 May, 2018, also in the Maltese language whereby the said Court found the accused not guilty of the second charge and acquitted him from that charge but found him guilty of the first charge and in lieu punishment bound the accused with an obligation under article 383 of the Criminal Code under penalty of €700 (without a specified term);

Having seen the appeal application of Jean Pierre Pace filed in the registry of this Court on the 22 May, 2018 in the Maltese language requesting this Court to reform the said judgement by confirming that part in which he was acquitted of the second charge and revoking that part by which he was found guilty of the first charge and by which he was put under an obligation in terms of article 383 of the Criminal Code;

Having seen the records of the case;

Having heard the preliminary plea raised by the Attorney General;

Having heard submissions by the parties

Having considered:

1. That during the sitting of the 1st of February, 2021, the Attorney General premised that by order of the first Court of the 11 May, 2018, proceedings were to continue in the English

language yet the judgement of even date was pronounced in the Maltese language, the appeal application was also filed in the Maltese language and that therefore this amounts to a nullity of the proceedings;

2. From an examination of the records of the proceedings, the Court observes that the charges were proffered against the accused in the Maltese language. During the sitting of the 11 May, 2018, the first Court ordered that “*these proceedings be carried out in the English language*”. The records were minuted in the English language from then on, however at the end of the records of the same sitting the following note was entered in the Maltese language. “*Tilliberah mill-akkuza numru [2] u ssibu hati tal-akkuza numru [1]. Inghatat is-Sentenza*”. The judgement of the first Court was also pronounced in the Maltese language even though the first Court ordered that the proceedings were to continue in the English language. The application of appeal is also in the Maltese language;

3. Now the reason why this preliminary judgement is being delivered in the English language is due to the fact that the order of the first Court of the 11 May 2018 still stands. It is the language which appellant understands and it would be inopportune for this Court to pronounce its judgement in the Maltese language when the proceedings should have been held in the Maltese language;

4. In accordance with article 5(3) of the Constitution of the Republic of Malta the official language of the Courts of Malta is the Maltese language. However, the proviso to this article

empowers the legislature to make provision for use of the English language in those cases where it deems it expedient. The promulgation of Chapter 189 of the laws of Malta entitled Judicial Proceedings Act (Use of the English language) indeed signifies use of the latter proviso and allows use of the English Language in both courts of civil and criminal jurisdictions;

5. Having established that the first Court itself ordered that the proceedings be heard in the English language, use of Maltese language in delivering judgement rendered the proceedings null and void including any subsequent act filed in the Maltese language from then on;

6. The Attorney General is therefore correct in his plea and consequently upholds the said plea of nullity of the proceedings;

7. Consequently declares the proceedings before the first Court to be null and void and whilst abstaining from taking further cognisance of the application of appeal, orders that the records be transmitted to the first Court to consider and determine the case against the accused anew.