



MALTA

**QORTI TAL-MAGISTRATI (GUDIKATURA  
KRIMINALI)  
KUMPILAZZJONIJIET - NORMALI**

**MAGISTRAT DR.  
LOFARO ABIGAIL LL.D., DIP. STUD. REL., MAG.,  
JURIS (EU LAW)**

Seduta ta' 17 ta' Ottubru, 2002

Numru 325/98

The Police  
(Inspector Raymond Vella Gregory)  
VS

Yousif Ahmed Issa Mohammed

The Court;

Having seen the charges brought against the above mentioned defendant charged with having in these islands, during these last years, by means of several acts committed at different times, which constitute violation of the same provision of the Law and which were committed in pursuance of the same design :

(a) 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 an imaginary power, influence or credit, or to create the expectation or apprehension of any chimerical event, made gains of over LM1,000 to the detriment of several persons and this in breach of Sections 308 and 310 of Chapter 9 of the Laws of Malta;

(b) misapplied, converting to his own benefit or to the benefit of any other person, anything which had been entrusted or delivered to him under a title which implies an obligation to return such thing or to make use thereof for a specific purpose, that is the sum of LM5,000 entrusted or delivered to him by reason of his profession, trade, business, management, office or service or in consequence of a necessary deposit and this in breach of sections 293 and 294 of Chapter 9 of the Laws of Malta;

The Court is requested that besides awarding the punishments prescribed by Law, declare the said Yousif Ahmad Issa Mohammed a prohibited immigrant and issue a removal order against him in terms of Section 15 of Chapter 217 of the Laws of Malta;

Having seen the note filed by the Attorney General on the 9<sup>th</sup> of December, 1997 wherein he found that there might result an offence or offences under the provisions of Sections 293, 294, 308, 309 and 310 of the Criminal Code and having heard defendant answer that he has no objection that his case be treated by summary proceedings and decided by this Court;

Having heard all the witnesses which were produced;

Having seen all the documents which were exhibited in Court;

Having seen all the evidence and all the acts of these proceedings;

Having noted that the Prosecuting Officer withdrew his request that the Court besides awarding the punishment

prescribed by Law, declare defendant to be a prohibited immigrant and issue a removal order against him in terms of Section 15 of Chapter 217 of the Laws of Malta;

Having heard defendant duly assisted by defence counsel register a guilty plea to the second charge that of having misapplied the sum of LM5,000 entrusted or delivered to him by reason of his profession, trade, business, management, office or service or in consequence of a necessary deposit and this in breach of sections 293 and 294 of Chapter 9 of the Laws of Malta;

Having heard the Prosecuting Officer declare in Court, during the sitting of the 30<sup>th</sup> September 2002, that in fact the first charge, that of fraud, does not result in this case, but that what has resulted from the evidence which has been produced in Court is that the defendant is guilty of misappropriation, frees defendant from the first charge brought against him and finds him guilty of the second charge, that of misappropriation, and this after having seen sections 293 and 294 of Chapter 9 of the Laws of Malta;

Having considered for the purpose of punishment the fact that defendant has a clean criminal record and the fact that it has resulted from the evidence which has been submitted that defendant was himself the victim of fraud by a third party. Having also considered the fact that defendant filed a guilty plea, does not find the punishment of imprisonment to be suitable in this case and therefore, after having also seen Section 9 of Chapter 152 of the Laws of Malta frees defendant on condition that he does not commit another offence for a period of three years from today;

The Court declares that it has explained to defendant in ordinary language that if he does commit another offence within this period of three years from today and is found so guilty, the Court which declares his guilt can also condemn him to imprisonment in respect of this offence.

Kopja Informali ta' Sentenza

The Court abstains from taking further cognisance of the Prosecution's request that defendant be declared a prohibited immigrant and that the Court would issue a removal order against him in terms of Chapter 217 of the Laws of Malta since the Prosecution has withdrawn this plea.

(signed) Rita Saliba  
Deputy Registrar

True copy,

Deputy Registrar