



THE COURT OF CRIMINAL APPEAL

Hon. Mr. Justice Dr. Aaron M. Bugeja M.A. (Law), LL.D. (melit)

Today the 30th June 2022

Appeal number 441/2021 in the names :

The Republic of Malta

vs.

Collins EGUAVOEN

The Court,

1. Having seen the charges brought against the accused **Collins EGUAVOEN**, of Nigerian nationality, born in Nigeria on the 1st of January 1992, residing at Splendour Court, Block B, Flat 2, Triq il-Katakombi, Marsaskala, and holder of Maltese Identity Card number 9000576(A) who was charged with having in these Islands, during the months of January, February and March of the year two thousand and nineteen (2019):

By several acts done by them, even at different times, and in breach of the same provisions of the Law, and made by a single resolution:

1. Committed acts of money laundering by having:

converted or transferred property knowing or suspecting that such property is derived directly or indirectly from, or the proceeds of, criminal activity or from an act or acts of participation in criminal activity, for the purpose of or purposes of concealing or disguising the origin of the property or of assisting any person or persons involved or concerned in criminal activity;

- . concealed or disguised the true nature, source, location, disposition, movement, rights with respect of, in or over, or ownership of property, knowing or suspecting that such property was derived directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;
 - i. acquired, possessed or used property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;
 - ii. retained without reasonable excuse of property knowing or suspecting that the same was derived or originated directly or indirectly from criminal activity or from an act or acts of participation in criminal activity;
 - iii. attempted any of the matters or activities defined in the above foregoing sub-paragraphs (i), (ii), (iii) and (iv) within the meaning of article 41 of the Criminal Code;
 - iv. acted as an accomplice within the meaning of article 42 of the Criminal Code in respect of any of the matters or activities defined in the above foregoing sub-paragraphs (i), (ii), (iii), (iv) and (v);
2. And also in the same date, time, place and circumstances, in Malta knowingly received or purchased any property which was stolen, misapplied or obtained by means of any offence, whether committed in Malta or abroad, or knowingly took part, in any manner whatsoever, in the sale or disposal of the same.

Collins Eguavoen is also charged with breaching his bail conditions which were imposed on him by a decree dated 11th August 2017 and revised by a decree dated the 28th May 2018, issued by Magistrate Dr Natasha Galea Sciberras in the case 'The Police vs Eguavoen Collins';

This Court has been requested to order, in case of guilt and in addition to inflicting the penalties laid down in the Law, the confiscation of all the exhibited goods, of the corpus delicti and the instruments which served or were intended to be used to commit the crime, and of all that has been obtained by the crime, as well as to order the confiscation in favour of the Government of the proceeds offence or of such property the value of which corresponds to the value of such proceeds as well as of all the property of the accused in terms of Chapter 373 as well as articles 23 and 23B of the Criminal Code;

This Court has also been requested to seize from third parties in general all moneys and movable or immovable property which are due to or pertain to the accused or are their property, as well as prohibiting them from transferring or otherwise disposing of any movable or immovable property in terms of article 5 of Chapter 373 even as applicable under article 23A of Chapter 9;

This Court has also been requested to order, in case of guilt, the accused to pay costs related to the appointment of experts in the proceedings as contemplated in article 533 of Chapter 9 of the Laws of Malta.

2. Having seen the judgment delivered by the Court of Magistrates (Malta) on the 29th September 2021 wherein, that Court stated that

having seen Articles 17(h), 18, 23, 23A, 31, 334(c) and 310(1)(a) of the Criminal Code and Article 3 of The Prevention of Money Laundering Act, Chapter 373 of the Laws of Malta, finds accused **Collins Eguavoen** not guilty of the third charge (namely that which refers to the breach of bail conditions) brought against him and acquits him thereof, and upon his guilty plea, finds him guilty of the first and second charges and sentences him to a punishment of **two (2) years imprisonment**, which by application of Article 28A of the Criminal Code, is being **suspended for a period of four (4) years** from this day.

The Court explained to the person sentenced, in clear and simple terms, the legal consequences of this judgement, should he commit any other offence punishable by imprisonment within the operative period of the suspended sentence.

In terms of Article 23B(2) of the Criminal Code and Article 3(5) of The Prevention of Money Laundering Act, Chapter 373 of the Laws of Malta, the Court sentences **Collins Eguavoen** to the payment of a **fine (*multa*)** equivalent of the amount of the proceeds of the offence, namely, **the sum of fourteen thousand, two hundred ninety two euro and ninety cents (€14,292.90)**.¹

In terms of Article 3(5) of the Prevention of Money Laundering Act, Chapter 373 Laws of Malta and Article 22(3A)(d) of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, rendered applicable to these proceedings by Article 3(7) of the Prevention of Money Laundering Act, Chapter 373 of the Laws of Malta, the Court orders the forfeiture in favour

¹ This sum comprises the payments made by the victim to the accused, namely, two payments of five thousand euro (€5,000) each, one payment of three hundred and fifty euro (€350) and a payment of four thousand and five hundred US Dollars (USD 4,500), which in terms of the conversion rate on 15th January 2019, namely when the payment was made by Attilia Attard, is equivalent to three thousand, nine hundred and forty-two euro and ninety cents (€3942.90).

of the Government of all moneys or other movable property, and of the entire immovable property of the person so found guilty, even if the immovable property has, since the offender was charged, passed into the hands of third parties, and even if the said monies, movable property or immovable property are situated in any place outside Malta.

Since no experts have been appointed in the course of these proceedings in relation to the person here sentenced, no order is being made by the Court in terms of Section 533 of the Criminal Code.

3. Having seen that the accused appealed from that judgment by means of an appeal application which was filed in the Court Registry on the 19th October 2021 wherein he requested this Court to vary the judgment of the Court of Magistrates (Malta) :

by confirming those parts where it declared appellant not guilty of the third charge namely that which refers the breach bail conditions brought against him and acquitted him thereof and found appellant guilty of the first and second charges and sentenced him to a punishment of two 2 years imprisonment suspended for period four years while quashing and revoking the said judgement where appellant was condemned to the payment of a fine (multa) equivalent to the amount of the proceeds of the offence namely the sum of fourteen thousand two hundred ninety two and ninety cents (Euro14292.90) and instead drastically reduces the said amount or waives it completely in the light of the aforementioned judgements Doc A and B

4. Having seen that during the sitting of the 31st May 2022 the Attorney General pleaded the nullity of the application of appeal of the appellant on account of the fact that it was filed after the lapse of twelve working days from the date of the judgment as provided by article 417(1) of the Criminal Code.

Considers as follows :

5. The judgment delivered by the Court of Magistrates (Malta) is dated 29th September 2021. The appeal application was filed on the 19th October 2021. This can be seen clearly from the face of the records.

6. Article 417(1) of the Criminal Code states that :

(1) The appeal shall be brought before the Court of Criminal Appeal by an application to be filed within twelve working days, and, to run, for the

person convicted and for the complainant, from the day on which the definitive judgment is delivered, and, for the Attorney General, from the day on which he receives the record.

7. The Attorney General is right. Twelve working days reckoned from the day on which the definitive judgment was delivered fell on the 15th October 2021. During that period there was no national or public holiday.

8. The time limit for the filing of the appeal application is a peremptory time limit which has to be adhered to strictly, on pain of nullity of the appeal. Case law clearly states that this is an issue of public policy which every Court is bound to take notice of.²

DECIDE

Consequently, this Court accedes to the plea of nullity of the application of appeal raised by the Attorney General on account of the fact that this appeal application was filed after the lapse of the statutory time limit and declares the appeal application as null and void therefore abstaining from taking any further cognisance of the same.

**Aaron M. Bugeja,
Judge**

² See on these lines : **Gio Andrea Psaila -vs- Emidio Mamo**, Civil Appeal, 16 th May 1966 (Kollez. Vol. L P I p 197) and **Azzopardi General Transport Ltd vs. George Mifsud, Joseph Mifsud u Maryanne Micallef** decided by the First Hall of the Civil Court on the 19th October 2005.