



Court of Magistrates (Malta) as a Court of Criminal Judicature

THE POLICE (INSPECTOR CHRISTOPHER FORMOSA) V. OLSKJAN ALLKJA (ID. 257557A)

MAGISTRATE: DR. VICTOR G. AXIAK

06/12/2022

THE COURT,

Having seen the charges issued against the accused:

To: Olsjan Allkja **Son of N/A born on the 18/03/1989 in Albanija**
Residing: 24, Carmen, Flt 3, Triq Lorenzo Gafa, Siggiewi
I.D. 0257557 (A)

As you have been charged: with having on the 07/06/2022 at about 12:25 hrs in Triq I-Avjazzjoni, Luqa drove vehicle BBG 001;

1. Drove a motor vehicle or any other vehicle without a driving licence **Sec. 15(1)(a)(3), Chap. 65**
2. Used, caused or permitted any other person to use a motor vehicle on a road, to the use of the vehicle by that person or that other person without a policy of insurance in respect of third party risks **Sec. 3(1), Chap. 104**
3. Drove a motor vehicle or any other vehicle in a negligent manner **Art. 15(1)(a)(3), Chap. 65**
4. Drove a motor vehicle or any other vehicle in a dangerous manner **Art. 15(1)(a)(2), Chap. 65**
5. Drove a motor vehicle or any other vehicle in a reckless manner **Art. 15(1)(a)(2), Chap. 65**

The Prosecution requests that the mentioned person be disqualified from all his driving licenses

Having heard the witnesses summoned before it and having considered the testimony that was produced, that is, the testimony of PS 1258 Carmel Debattista (affidavit), Martina Camilleri, Claire Privitera, Ivan Sciberras, Karen Cremona (Transport Malta) and George Stagno Navarro;

Having seen all the acts of the case including the footage of the alleged incident;

Having heard final submissions made by the Prosecution and the Defence;

Is giving the following

Judgement

From the testimony of Martina Camilleri and Claire Privitera it results that on 7 June 2022 at around 12.25pm whilst Ms. Camilleri was driving her vehicle with registration number DCM 589 along Triq l-Avjazzjoni, Luqa (Claire Privitera being a passenger in the said vehicle), a construction truck bearing registration number BBG 001 that was being driven in the same direction overtook her vehicle by sharply turning on the inner lane (i.e. the same lane of travel of vehicle DCM 589) in a manner that required sudden evasive action from Ms. Camilleri to avoid a collision. The Court having seen the dashcam footage provided by Ms. Camilleri notes that had it not been for the quick reflexes of the witness, it would have almost certainly led to a serious traffic incident. It is also very clear to the Court that the driver of the truck drove the vehicle in a reprehensible, dangerous and reckless manner.

Both Martina Camilleri and Claire Privitera could not however (understandably so, given that the incident took place over the span of a few seconds and given that Ms. Camilleri stopped her vehicle abruptly to avoid a collision) identify the driver of the other vehicle. On his part, Ivan Sciberras, Manager at Bonnici Bros Limited, owner of the construction truck in question, testified that on 7 June 2022 the vehicle was assigned to the accused Olsjan Allkja.

The accused opted to remain silent (as he is entitled to do in terms of law) during the interrogation and also opted not to testify in Court.

The Court believes that on a balance of probabilities the truck was being driven by the accused on the day, at the time and in the place indicated on the summons. However in a criminal court this is not sufficient since the evidence against the accused needs to be such that is beyond reasonable doubt. Given that nobody identified the accused as the driver, the Court has no alternative other than to acquit the accused of all charges due to lack of evidence.

Decision

For the abovementioned reasons the Court acquits the accused of all charges due to lack of evidence.

**V.G. Axiak
Magistrate**

**Y.M. Pace
Dep. Registrar**