



THE CRIMINAL COURT

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

Today the 20th December 2022

Bill of Indictment number 10/2021 in the names:

The Republic of Malta
vs.
Michael EMMANUEL

The Court:

1. Having seen the bill of indictment issued against **Michael EMMANUEL**, 32 years of age, son of Philip Emmanuel and Philippa Cecilia born in Ivory Coast on the 1st of August 1990 and presently residing at the Corradino Correctional Facility, holder of Maltese Identity Card Number 74870A, who stands accused of:

FIRST (1) COUNT ***Wilful Homicide of Maria-Lourdes Agius***

The facts of the case

That **MICHAEL EMMANUEL** had a relationship with Maria-Lourdes Agius for around four (4) years. During the initial two (2) years they lived together in an apartment in Bugibba. Thereafter, they moved in with the mother of

Maria-Lourdes in apartment 2 at 12, 'St Mary', F. Tortell Street, in Rañal Ġdid (Paola).

That the young couple had two sons together in close succession and they were experiencing financial difficulties. Their relationship was strained and they had many disagreements.

That on the thirteenth (13th) day of September of the year Two Thousand and Eighteen (2018), at about half past five in the afternoon (17:30) in Rañal Ġdid (Paola), the accused **MICHAEL EMMANUEL** lost his temper when he learnt that his partner had spent an aggregate sixty (€60) Euros on infant milk and biscuits at the pharmacy and on food-stuff at the grocery shop.

That the accused **MICHAEL EMMANUEL** picked the items that she had bought and smashed them on the floor. He accused Maria Lourdes of squandering his money, and he punched her on her back, threw her to the floor and kicked her. He then threw a chair at her and threatened to kill her. He even acted aggressively towards her mother, causing her an injury (as explained in the Third (3) Count and in the Fifth (5) Count of this Bill of Indictment). Following this aggression, the accused **MICHAEL EMMANUEL** was warned by the Police not to approach Maria-Lourdes Agius, her mother, or the residence above-mentioned.

That the following day, on the fourteenth (14th) day of September of the year Two Thousand and Eighteen (2018), the accused **MICHAEL EMMANUEL**, notwithstanding the police orders afore-mentioned, and in defiance of same, went to the street where Maria-Lourdes Agius and Maria Agius resided, and raised a commotion. Maria-Lourdes Agius resolved to let him inside the apartment to calm the quabble. Full of good intentions, Maria-Lourdes Agius even permitted the accused to spend the night at 12, St. Mary, Flat 2, Triq F. Tortell, Rañal Ġdid (Paola). However, the accused had other plans and ulterior motives.

That during that night of the same fourteenth (14th) day of September of the year Two Thousand and Eighteen (2018), and before seven (7) o'clock of the fifteenth (15th) day of September of the year Two Thousand and Eighteen (2018), the accused **MICHAEL EMMANUEL** decided to carry out the wilful homicide of Maria-Lourdes Agius. Hence, maliciously, with intent to kill Maria-Lourdes Agius or to put her life in manifest jeopardy, he obstructed her air passages by applying physical pressure on her neck, and he manually strangulated her until she died of asphyxia.

That, thereafter, at the dawn of the fifteenth (15th) day of September of the year Two Thousand and Eighteen (2018), at around seven (7) o'clock, the accused **MICHAEL EMMANUEL** reported at the Rañal Ġdid (Paola) Police Station to notify officials that his partner Maria-Lourdes Agius had slept during the night but did not awake from her sleep in the morning.

That when Police Officers reported on site, they found Maria-Lourdes Agius' lifeless body in *rigor mortis* lying on one side on the bed, facing the wall, covered with a sheet. It transpired that the victim had scratches around the mouth as well as bruises around the neck, among other injuries.

That when the Executive Police spoke to Maria Agius she recalled hearing an argument between her late daughter and the accused **MICHAEL EMMANUEL** at around two (2a.m) in the morning, and subsequently hearing the accused pacing repeatedly up and down the roof during the same night.

That when the accused **MICHAEL EMMANUEL** was arrested and spoken to by the Police on the fifteenth (15th) day of September of the year Two Thousand and Eighteen (2018), he released two statements. In his first statement he confirmed that he had spent the night with Maria-Lourdes Agius. He said that he was unaware of what had caused the death of Maria-Lourdes and also denied having an argument with the victim in the early hours of the morning, as alleged by the victim's mother. During his second interrogation that was requested by the accused himself, **MICHAEL EMMANUEL** told the Police that Maria-Lourdes had asked him to press a cross to her neck so that the accused would be free of her and able to pursue his future which included marrying someone else. The accused **MICHAEL EMMANUEL** claimed that he had barely pressed her neck, when the victim stopped moving, and it was at that point that he had realised that Maria-Lourdes Agius had died.

The consequences

That by committing the abovementioned acts with criminal intent, **MICHAEL EMMANUEL** rendered himself guilty of wilful homicide namely that on the night of the fourteenth (14th) day of September of the year Two Thousand and Eighteen (2018), and before seven (7) o'clock of the fifteenth (15th) day of September of the year Two Thousand and Eighteen (2018), in Rañal Ġdid (Paola), maliciously, with intent to kill another person (Maria-Lourdes Agius), or to put the life of such other person in

manifest jeopardy, caused the death of such other person (Maria-Lourdes Agius).

The accusation

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accuses **MICHAEL EMMANUEL** of being guilty of wilful homicide, that is, for having on the night of the fourteenth (14th) day of September of the year Two Thousand and Eighteen (2018), and before seven (7) o'clock of the fifteenth (15th) day of September of the year Two Thousand and Eighteen (2018), in Raġal Ġdid (Paola), maliciously, with intent to kill another person (Maria-Lourdes Agius), or to put the life of such other person in manifest jeopardy, caused the death of such other person (Maria-Lourdes Agius).

The punishment demanded

Wherefore, the Attorney General, in the name of the Republic of Malta, demands that the accused **MICHAEL EMMANUEL** be proceeded against according to law, and that he be sentenced to **the punishment of imprisonment for life**, as is stipulated and laid down in articles 17, 23, 31, 211(1), 211(2) and 533 of the Criminal Code, Chapter 9 of the Laws of Malta, or to any other punishment applicable according to law to the declaration of guilty of the accused.

SECOND (2) COUNT

Attempted Grievous Bodily Harm on the person of Maria-Lourdes Agius

The facts of the case

That on the thirteenth (13th) day of September of the year Two Thousand and Eighteen (2018), in Raġal Ġdid (Paola), at about half past five in the afternoon (17:30), the accused **MICHAEL EMMANUEL** lost his temper when he learnt that some of the money from the one hundred and fifty (€150) Euros that he had given to Maria-Lourdes Agius (his partner for four (4) years and with whom he had two sons), to buy the necessities for the baby were spent on food for the family. It transpired that Maria-Lourdes used sixty (€60) Euros of these monies to buy baby biscuits and milk from the pharmacy, and food-stuff from the grocery shop.

That the accused **MICHAEL EMMANUEL** picked the items that she had bought and smashed them on the floor. He accused Maria Lourdes of squandering his money and he punched her on her back, threw her to the floor and kicked her. He then threw a chair at her and threatened to kill her.

That in so doing, the accused **MICHAEL EMMANUEL** attempted to cause grievous bodily harm on the person of his partner Maria-Lourdes Agius with whom he had two sons and with whom he had been residing in the same household for a period of four (4) years preceding the offence. His attempt fell short of the completed offence due to an accidental cause which was independent of his will.

The consequences

By committing the above-mentioned acts with criminal intent, **MICHAEL EMMANUEL** rendered himself guilty of attempted grievous bodily harm with aggravating circumstances in breach of the provisions of the Criminal Code, Chapter 9 of the Laws of Malta.

The accusation

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accuses **MICHAEL EMMANUEL** of being guilty of having, on the thirteenth (13th) day of September of the year Two Thousand and Eighteen (2018), at about half past five in the afternoon (17:30) in Raħal Gdid (Paola), with intent to commit a crime which was not completed in consequence of some accidental cause independent of the will of the offender, manifested such intent by overt acts which were followed by a commencement of the execution of the crime of grievous bodily harm, that is, without intent to kill or to put the life of any person (his partner and co-habitant Maria-Lourdes Agius) in manifest jeopardy, caused harm to the body or health of such other person (Maria-Lourdes Agius). Moreover, this crime is aggravated in terms of law due to the fact that the said Maria-Lourdes Agius was a person with whom the accused had two sons and with whom he had been residing in the same household for a period of four (4) years preceding the offence, and this against the provisions of Chapter 9 of the Laws of Malta.

The punishment demanded

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, demands that the accused **MICHAEL EMMANUEL** be proceeded against according to law, and that he be sentenced to **the punishment of imprisonment for a term from nine (9) months to six (6) years**, as is stipulated and laid down in articles 17, 31, 41(1)(a), 214, 215, 216 (1), 222 (1)(a), 202(h)(i)(iv)(v) and 533 of the Criminal Code, Chapter 9 of the Laws of Malta, or to any other punishment applicable according to law to the declaration of guilty of the accused.

THIRD (3) COUNT

Attempted Grievous Bodily Harm on the person of Maria Agius

The facts of the case

That on the thirteenth (13th) day of September of the year Two Thousand and Eighteen (2018), in Rañal Ġdid (Paola), at about half past five in the afternoon (17:30), the accused **MICHAEL EMMANUEL** lost his temper when he learnt that some of the money from the one hundred and fifty (€150) Euros that he had given to Maria-Lourdes Agius, his partner for four (4) years and with whom he had two sons, to buy the necessities for the baby, were spent on food for the family. It transpired that Maria-Lourdes used sixty (€60) Euros of these monies to buy baby biscuits and milk from the pharmacy, and food-stuff from the grocery shop.

That the accused **MICHAEL EMMANUEL** picked the items that she had bought and smashed them on the floor. He accused Maria-Lourdes of squandering his money, and he punched her on her back, threw her to the floor and kicked her. He then threw a chair at her and threatened to kill her. This, as explained in the previous Count of this Bill of Indictment.

That Maria Agius, a person who had attained the age of sixty (60) years, and the mother of Maria-Lourdes, witnessed this act of aggression against her daughter. She intervened and asked the accused **MICHAEL EMMANUEL** to leave her residence, to take his money, the food and his children.

That in defiance, the accused **MICHAEL EMMANUEL** pushed Maria to the floor, making her trip on the glass of the broken jar of mayonnaise which he had smashed on the floor a few moments earlier. He then

punched Maria on her chest and delivered a blow to her forehead. She was left suffering from an open wound on her forehead that needed stitches.

That consequently, the accused **MICHAEL EMMANUEL** attempted to cause grievous bodily harm on the person of his partner's mother Maria Agius, a person who had attained the age of sixty (60) years. His attempt fell short of the completed offence due to an accidental cause which was independent of his will.

The consequences

By committing the abovementioned acts with criminal intent, **MICHAEL EMMANUEL** rendered himself guilty of attempted grievous bodily harm with aggravating circumstances in breach of the provisions of the Criminal Code, Chapter 9 of the Laws of Malta.

The accusation

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accuses **MICHAEL EMMANUEL** of being guilty of having, on the thirteenth (13th) day of September of the year Two Thousand and Eighteen (2018), at about half past five in the afternoon (17:30) in Raħal Ġdid (Paola), with intent to commit a crime which was not completed in consequence of some accidental cause independent of the will of the offender, manifested such intent by overt acts which were followed by a commencement of the execution of the crime of grievous bodily harm, that is, without intent to kill or to put the life of any person (his partner's mother Maria Agius) in manifest jeopardy, caused harm to the body or health of such other person (Maria Agius), which person had attained had attained the age of sixty (60) years.

The punishment demanded

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, demands that the accused **MICHAEL EMMANUEL** be proceeded against according to law, and that he be sentenced to **the punishment of imprisonment for a term from nine (9) months to nine (9) years**, as is stipulated and laid down in articles 17, 31, 41(1)(a), 214, 215, 216 (1), 222A(1) and 533 of the Criminal Code, Chapter 9 of the Laws of Malta, or to any other

punishment applicable according to law to the declaration of guilty of the accused.

FOURTH (4) COUNT

Slight Bodily Harm on the person of Maria-Lourdes Agius

The facts of the case

That on the thirteenth (13th) day of September of the year Two Thousand and Eighteen (2018), in Raġal Ġdid (Paola), at about half past five in the afternoon (17:30), the accused **MICHAEL EMMANUEL** lost his temper when he learnt that some of the money from the one hundred and fifty (€150) Euros that he had given to Maria-Lourdes Agius, his partner for four (4) years and with whom he had two sons, to buy the necessities for the baby, were spent on food for the family. It transpired that Maria-Lourdes used sixty (€60) Euros of these monies to buy baby biscuits and milk from the pharmacy, and other food-stuff from the grocery shop.

That the accused **MICHAEL EMMANUEL** picked the items that she had bought and smashed them on the floor. He accused Maria-Lourdes of squandering his money, and he punched her on her back, threw her to the floor and kicked her. He then threw a chair at her and threatened to kill her. Her injuries were classified as slight by Dr Luke Zammit M.D. Reg. No. 3861 at Mater Dei Hospital.

The consequences

By committing the abovementioned acts with criminal intent, **MICHAEL EMMANUEL** rendered himself guilty of causing slight injuries on the person of of his partner Maria-Lourdes Agius, and this in breach of the provisions of the Criminal Code, Chapter 9 of the Laws of Malta.

The accusation

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accuses **MICHAEL EMMANUEL** of being guilty of having, on the thirteenth (13th) day of September of the year Two Thousand and Eighteen (2018), at about half past five in the afternoon (17:30) in Raġal Ġdid (Paola), with criminal intent, committed the offence of slight bodily harm on the person of his partner Maria-Lourdes Agius, that is without intent to kill or to put the life of any person (his partner Maria-Lourdes Agius) in manifest

jeopardy, caused harm to the body or health of such other person (Maria-Lourdes Agius), this, against the provisions of Chapter 9 of the Laws of Malta.

The punishment demanded

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, demands that the accused **MICHAEL EMMANUEL** be proceeded against according to law, and that he be sentenced to **the punishment of imprisonment for a term not exceeding two (2) years or a fine (multa)**, as is stipulated and laid down in articles 17, 31, 214, 215, 221(1) and 533 of the Criminal Code, Chapter 9 of the Laws of Malta, or to any other punishment applicable according to law to the declaration of guilty of the accused.

FIFTH (5) COUNT

Slight Bodily Harm on the person of Maria Agius

The facts of the case

That on the thirteenth (13th) day of September of the year Two Thousand and Eighteen (2018), in Rañal Ġdid (Paola), at about half past five in the afternoon (17:30), the accused **MICHAEL EMMANUEL** lost his temper when he learnt that some of the money from the one hundred and fifty (€150) Euros that he had given to Maria-Lourdes Agius, his partner for four (4) years and with whom he had two sons, to buy the necessities for the baby, were spent on food for the family. It transpired that Maria-Lourdes used sixty (€60) Euros of these monies to buy baby biscuits and milk from the pharmacy, and other food-stuff from the grocery shop.

That the accused **MICHAEL EMMANUEL** picked the items that she had bought and smashed them on the floor. He accused Maria-Lourdes of squandering his money, and he punched her on her back, threw her to the floor and kicked her. He then threw a chair at her and threatened to kill her.

That Maria Agius, a person who had attained the age of sixty (60) years, and the mother of Maria-Lourdes, witnessed this act of aggression against her daughter. She intervened and asked the accused **MICHAEL EMMANUEL** to leave her residence, to take his money, the food and his children.

That in defiance, the accused **MICHAEL EMMANUEL** pushed Maria to the floor, making her trip on the glass of the broken jar of mayonnaise which he had smashed on the floor a few moments earlier. He then punched Maria on her chest and delivered a blow to her forehead. She was left suffering from an open wound on her forehead that needed stitches. Her injuries were classified as slight by Dr Nicholas Vella M.D. Reg. No. 4297 at Mater Dei Hospital.

The consequences

By committing the above-mentioned acts with criminal intent, **MICHAEL EMMANUEL** rendered himself guilty of causing slight injuries on the person of Maria Agius, a person who had attained the age of sixty (60) years old, this in breach of the provisions of the Criminal Code, Chapter 9 of the Laws of Malta.

The accusation

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accuses **MICHAEL EMMANUEL** of being guilty of having, on the thirteenth (13th) day of September of the year Two Thousand and Eighteen (2018), at about half past five in the afternoon (17:30) in Raħal Ġdid (Paola), with criminal intent, committed the offence of slight bodily harm on the person of Maria Agius, a person who has attained the age of sixty years, that is, without intent to kill or to put the life of any person (his partner's mother Maria Agius) in manifest jeopardy, caused harm to the body or health of such other person (Maria Agius), which person had attained the age of sixty (60) years, this, against the provisions of Chapter 9 of the Laws of Malta.

The punishment demanded

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, demands that the accused **MICHAEL EMMANUEL** be proceeded against according to law, and that he be sentenced to **the punishment of imprisonment for a term from three (3) years to four (4) years, or a fine (multa)**, as is stipulated and laid down in articles 17, 31, 214, 215, 221(1), 222A (1) and 533 of the Criminal Code, Chapter 9 of the Laws of Malta, or to any other punishment applicable according to law to the declaration of guilty of the accused.

SIXTH (6) COUNT

Disobedience of lawful orders

The facts of the case

That as narrated in the previous counts of this Bill of Indictment, **MICHAEL EMMANUEL** had a relationship with Maria-Lourdes Agius for around four (4) years. During the initial phase they lived together in an apartment in Buġibba. Thereafter, they moved in with the mother of Maria-Lourdes in an apartment in Triq F. Tortell in Raġal Ġdid (Paola), where they resided for two (2) years.

That matters escalated on the thirteenth (13th) day of September of the year Two Thousand and Eighteen (2018), at about half past five in the afternoon (17:30) in Raġal Ġdid (Paola), when the accused **MICHAEL EMMANUEL** lost his temper and accused Maria-Lourdes of squandering his money. Besides beating Maria-Lourdes in front of her mother, he also subjected her mother to a beating and degrading treatment.

That in consequence, the accused **MICHAEL EMMANUEL** was ordered by Police Officers not to approach or go into the vicinity of the victims Maria-Lourdes Agius and her mother Maria Agius or in the whereabouts of their residence, that is 12, St. Mary, Flat 2, Triq F. Tortell, Raġal Ġdid (Paola).

That on the fourteenth (14th) day of September of the Year Two Thousand and Eighteen (2018), the accused **MICHAEL EMMANUEL** disobeyed this lawful order when he approached the place of abode of the victims.

That he was also ordered to report at the Police Station on the fourteenth (14th) day of September of the Year Two Thousand and Eighteen (2018), which order he failed to obey as he did not turn up at the Police Station.

The consequences

By committing the abovementioned acts with criminal intent, **MICHAEL EMMANUEL** rendered himself guilty of disobeying the lawful orders of any authority or of any person entrusted with a public service, and this in breach of the provisions of the Criminal Code, Chapter 9 of the Laws of Malta.

The accusation

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accuses **MICHAEL EMMANUEL** of being guilty of having, on the fourteenth (14th) day of September of the Year Two Thousand and Eighteen (2018), in Raġal Ġdid (Paola), disobeyed the lawful orders of any authority or any person entrusted with a public service, or hindered or obstructed such person in the exercise of his duties, or otherwise unduly interfered with the exercise of such duties, either by preventing other persons from doing what they are lawfully enjoined or allowed to do, or frustrating or undoing what has been lawfully done by other persons, or in any manner whatsoever, this, against the provisions of Chapter 9 of the Laws of Malta.

The punishment demanded

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, demands that the accused **MICHAEL EMMANUEL** be proceeded against according to law, and that he be sentenced to **detention, a fine (ammenda), or reprimand** as is stipulated and laid down in articles 7(2), 17, 31, 338 (ee) and 533 of the Criminal Code, Chapter 9 of the Laws of Malta, or to any other punishment applicable according to law to the declaration of guilty of the accused.

SEVENTH (7) COUNT

Forgery of public, commercial or private bank documents

The facts of the case

That on the fifteenth (15th) day of September of the Year Two Thousand and Eighteen (2018), the accused **MICHAEL EMMANUEL** was arrested on reasonable suspicion that he had caused the wilful homicide of his partner Maria-Lourdes Agius as narrated in the first (1) Count of this Bill of Indictment. A search was also conducted and false documents were found among his personal belongings. It hence transpired that on the fifteenth (15th) day of September of the Year Two Thousand and Eighteen (2018) and / or during the previous months, in the Maltese Islands, the accused **MICHAEL EMMANUEL** committed forgery of any other forged official documents that were found in his possession, that is: a Residence Permit ('Permesso di Soggiorno') with number I 04590870 (0028765243) depicting the accused however showing the name of Moussa Assante

issued on 21/11/2016 and valid until 20/11/2019, and a Greek Driving Licence with number 075458248 on the name of Michael Emmanuel born on 01/08/1990 in Ivory Coast, issued on 11/07/2015 and expires on 11/07/2030.

That from the investigation it transpired that the accused **MICHAEL EMMANUEL** had arrived in Malta by boat as an illegal immigrant on 29 March 2011 and was given police number 11C-192. That the issue dates of the above-mentioned two false documents indicate that the forged cards have been produced or procured during the time that the accused was already living in Malta.

The consequences

By committing the abovementioned acts with criminal intent, **MICHAEL EMMANUEL** rendered himself guilty of committing forgery of public, commercial or private bank documents and this in breach of the provisions of the Criminal Code, Chapter 9 of the Laws of Malta.

The accusation

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accuses **MICHAEL EMMANUEL** of being guilty of having, on the fifteenth (15th) day of September of the Year Two Thousand and Eighteen (2018) and / or during the previous months, in the Maltese Islands, committed forgery of any authentic and public instrument or any commercial document, or private bank document (a Residence Permit / 'Permesso di Soggiorno' and a Greek driving licence) by counterfeiting or altering the writing or signature, by feigning any fictitious agreement, disposition, obligation or discharge, or by the insertion of any such agreement, disposition, obligation or discharge in any of the said instruments or documents after the formation thereof, or by any addition to or alteration of any clause, declaration or fact which such instruments or documents were intended to contain or prove, this, against the provisions of the Criminal Code, Chapter 9 of the Laws of Malta.

The punishment demanded

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, demands that the accused **MICHAEL EMMANUEL** be proceeded against according to law, and that he be sentenced to **imprisonment for a term from thirteen**

(13) months to four (4) years without or without solitary confinement as is stipulated and laid down in article 17, 31, 183 and 533 of the Criminal Code, Chapter 9 of the Laws of Malta, or to any other punishment applicable according to law to the declaration of guilty of the accused.

2. Having seen the note of preliminary pleas presented by the accused on the 8th July 2021 wherein the accused raised the plea of insanity in terms of Article 449(1)(e) of the Criminal Code;
3. Having heard the testimony of Dr. Kristian Sant, Dr. Aloisia Camilleri¹ and Dr. Jean Pierre Giorgio dated 28th July 2022 wherein they also submitted their report marked as Dok GCS in relation to the task entrusted to them by this Court to examine and report back their psychiatric findings on the state of mind of the accused in view of this preliminary plea;
4. Having seen that during the sitting dated 15th September 2022, despite the absence of his lawyer, the accused informed the Court that he wished for it to proceed with judgment in relation to the preliminary plea. This Court took the time to explain to him the nature of these preliminary proceedings and of his right to have his lawyer present to make submissions in relation to the preliminary plea raised by him. Despite this, the accused persisted in asking the Court to proceed with its preliminary judgment.
5. Having seen that during that same sitting the Court heard the Prosecuting Officer declare that he had no submissions to make in relation to the experts' report and in relation to the preliminary plea raised;
6. Having seen that once the accused's Lawyer was not present for this sitting, the Court granted the accused fifteen days within which to file any written submissions that he deemed fit in connection with the preliminary plea raised as well as the experts' report abovementioned.²

¹ Dr. Kristian Sant and Dr. Aloisia Camilleri were appointed by decree of this Court on the 23rd November 2021 to substitute Dr. Ethel Felice and Dr. Mark Xuereb who were originally appointed by this Court by decree dated 10th November 2021 as entrusted with the same task as the former mentioned.

² This minute was then served on the accused's Legal Counsel as can be seen at fol 72.

7. Having seen that the accused did not file any written submissions during the said fifteen days time conceded to him;

Considers as follows:

8. That through this preliminary plea in terms of Article 449(1)(e) of the Criminal Code the accused Michael EMMANUEL claims that due to his state of mental infirmity, he is not fit to stand trial before the Criminal Court for the accusations proffered against him by the Attorney General in the bill of indictment.
9. The general presumption at Law is that every person is capable of willing and understanding the consequences of his actions unless the otherwise be proven. In the words of Professor Mamo:³

In dealing with the nature of criminal responsibility generally, we have assumed that the person accused of an offence had a mind capable of forming an intention and capable of understanding the nature of an act done by him; that is to say, that he possessed both will and judgment and was free to exercise both. In fact, criminal responsibility, generally, postulates by essential conditions, i.e., first that the criminal act constituting the material and physical element of the offence, was committed or omitted by the person accused, so that it can be physically imputed to him as being his act; and secondly, that such act was done by him as a result of a positive or negative determination of conscious volition, so that it can also be morally imputed to him. From this it follows that any cause which affects the will or the understanding must also necessarily affect the existence or degree of criminal responsibility. Indeed, Blackstone says, "All the several pleas and excuses, which protect the committer of a forbidden act from the punishment, which is otherwise annexed thereto, may be reduced to a single consideration, the want or defect of will".

10. In making its assessment of this preliminary plea, the Court necessitated the scientific and medical guidance of expert psychiatrists who were appointed for this purpose. The Court took note of the report drawn by the experts Dr. Jean Pierre Giorgio, Dr. Aloisia Camilleri and Dr. Kristian Sant who also consulted with Dr. Joseph R. Saliba and Dr. David Cini and all medical and psychiatric files of the accused at Mount Carmel Hospital.

³ Notes on Criminal Law, Volume 1 GHSL Publication.

11. These experts conclude that the accused Michael EMMANUEL was fit to plead and stand trial, despite past episodes of psychosis. He understands what he is being accused of and the difference between pleading guilty and not guilty. He is able to follow and understand court proceedings, and his right to legal assistance as he understands he is able to instruct his lawyer to assist him during court proceedings.
12. This report therefore runs counter to the accused's argument and preliminary plea that he is in a state of insanity at the time of his trial.

DECIDE

Consequently, this Court hereby rejects the preliminary plea raised by the accused in terms of Article 449(1)(e) of the Criminal Code.

The case is being differed 'sine die' until the outcome of any appeal lodged or/and until such time as it is appointed for the trial by jury to take place before this Court, depending on whether an appeal is lodged therefrom or not.

**Aaron M. Bugeja,
Judge**