



**COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE**

**MAGISTRATE DR. NOEL BARTOLO
B.A., M.A. (Fin. Serv.), LL.D.**

Today 24th February, 2023

**The Police
(Inspector Nicholas Vella)**

vs.

**Mitulkumar Vasantbhai Patel
ID 205448(A)**

Case Number 1030/2022

The Court,

After having seen the charges brought against the accused **Mitulkumar Vasantbhai Patel**, born in India, on 17th March 1995, holder of identity card number 205448(A) **accused of having on the 10/04/2021 at around 22:50 hrs in Triq Dawret il-Gudja, Gudja drove vehicle no LDJ213**

1. Drove a motor vehicle or any other vehicle without a driving licence (Sec. 15(1)(a)(3) Chap 65.

The Prosecution requests that the mentioned person be disqualified from holding any driving licence for a period of time that the Court deems fit.

Having seen that together with the summons the Prosecution submitted the sworn affidavit of PS 2323 R. Gauci in the Maltese language;

Having seen that during sitting of the 22nd March 2022 the Court, as differently presided, had ordered the proceedings to be conducted in the English language given that the defendant is English speaking in accordance with Article 3(a) of Chapter 189 (Judicial Proceedings (Use Of English Language) Act) of the Laws of Malta;

Having seen the judgment delivered by the Criminal Court Appeal dated 8th July 2022 whereby it upheld the appeal filed by the Attorney General and declared that the judgment delivered by the First Court on the 22nd March 2022 as null and void and ordered that the proceedings be remanded back to the First Court so that the case may be examined afresh and thus the appellate will not be deprived from his right to double examination in terms of the law.

Having seen that by order of Chief Justice Mark Chetcuti of the 11th October 2022 this case was assigned to this Court as presided in terms of Article 11(9) of the Code of Organization and Civil Procedure and Article 520(1)(a) of the Criminal Code.

Having seen all the records of the case.

Having seen the sworn affidavit of PS 2323 R. Gauci in the English language presented before this Court during the sitting of the 13th January 2023.

Having seen that the defendant opted not to testify nor to submit any evidence.

Having heard the final submissions by the Prosecuting Officer Insp. Nicholas Vella and by the defence lawyer Dr. David Bonello.

Having seen the minutes of the sitting of the 13th January 2023 where the case was adjourned for today for judgement.

Considers

The accused is a foreign national. During a roadcheck held by the then PS 2323 R. Gauci on the 10th April 2021 between 22.45 hrs and 23.45 hrs in Dawret il-Gudja, Gudja the accused was apprehended driving a motorcycle of the make "Peugeot" bearing registration number LDJ213 without an international and/or Maltese driving license. The accused was in possession of an Indian driving licence. Karen Cremona, on behalf of Transport Malta, testified that the accused obtained his probation driving licence on the 18th August 2021.

In its submissions the defence raised two procedural issues being (i) the incorrect date on the charge sheet and (ii) that the affidavit submitted on the 13th January 2023 (fol 38 and 39) contains Maltese terminology and was not to be deemed as full translation of the affidavit submitted together with the charges.

The Court deems that the date 10th April 2021 mentioned on the charge sheet is correct. The date of the alleged offence was confirmed twice by the affidavits dated 12th April 2021 (two days after the alleged offence) and 26th December 2022 by Inspector R. Gauci. No proof was tendered by the accused showing that the date mentioned in the charge sheet is incorrect.

In regard to the second submission the accused contends that the affidavit of Inspector R. Gauci submitted on the 13th January 2023 (fol 38 and 39) is not fully translated and constitutes a new affidavit. The Court notes that Article 39(6) of the Constitution of Malta provides that every person charged with a criminal offence “*shall be informed in writing, in a language which he understands and in detail, of the nature of the offence charged*”. The Court considers that the sworn declaration and the merits of the affidavit submitted on the 13th January 2023 providing for the nature of the offence charged was duly translated in the English Language. The Maltese terminology in the translated affidavit is not in respect of the nature of the offence but rather in the format. It is clear that substance of the affidavit clearly explains the facts concerning this case so that the accused was in a position to clearly understand the evidence brought against him and the nature of the offence. Hence the Court deems that the Maltese terminology used in the affidavit is not prejudicial to the accused.

Decide:

The Court deems that the Prosecution has proved its case beyond a reasonable doubt and that the accused is thus guilty of the charge brought against him.

For the above-mentioned reasons and after having seen Articles 15(1)(a) and Articles 15(3) of Chapter 65 of the Laws of Malta, the Court finds the accused guilty of the charge brought against him and condemns him to a fine (*multa*) of two hundred fifty euros (€250) and disqualifies the accused from holding or obtaining a driving licence for a period of eight days.

Dr. Noel Bartolo
MAGISTRATE

Caroline Perrett
Deputy Registrar

24th February 2023