



# THE CRIMINAL COURT

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

---

**The Republic of Malta  
vs.  
Michael EMMANUEL**

**Today the 17th of July 2023**

**The Court,**

Having seen the bill of indictment filed by the Attorney General on the 24th May 2021 bearing number 10 of 2021 wherein **Michael EMMANUEL** was accused of having:

## **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, ir-Rahal Gdid (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 Rahal Gdid (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, Rahal Gdid (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 strangled 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 Rahal Gdid (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 Rahal Gdid (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) a'clock of the fifteenth (15th) day of September of the year Two Thousand and Eighteen (2018), in Rahal Gdid (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 Rahal Gdid (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 Rahal 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 (l), 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 Rahal 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 Rahal

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'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 Rahal Gdid (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 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 Rahal 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 Rahal 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 Rahal Gdid (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 Bugibba.

Thereafter, they moved in with the mother of Maria-Lourdes in an apartment in Triq F. Tortell in Rahal Gdid (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 Rahal Gdid (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, Rahal Gdid (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 Rahal Gdid (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 abovementioned 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 with 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.

Having seen the records of the proceedings;

Having seen that according to the verdict of the Jury reached today it was declared as follows:

### **First Count**

The jurors with **eight votes in favour and one vote against** found the accused **guilty** according to the First Count of the bill of Indictment.

### **Second Count**

The jurors **unanimously** found the accused **not guilty** of the crime of attempted grievous bodily harm to Maria-Lourdes Agius according to the Second Count of the bill of Indictment.

### **Third Count**

The jurors **unanimously** found the accused **not guilty** of the crime of attempted grievous bodily harm to Maria Agius according to the Third Count of the bill of Indictment.

### **Fourth Count**

The jurors with **eight votes in favour and one vote against** found the accused **guilty** according to the Fourth Count of the bill of Indictment. They also found that Maria Lourdes Agius was also a person who had a

child in common with the offender and who was living in the same household as the offender.

### **Fifth Count**

The jurors with **seven votes in favour and two votes against** found the accused **guilty** according to the Fifth Count of the bill of Indictment. They also found that Maria Agius was also a person having sixty years of age when the crime was committed. And they also found that the accused lived in the same household together with her.

### **Sixth Count**

The jurors **unanimously** found the accused **guilty** according to the Sixth Count of the bill of Indictment.

### **Seventh Count**

The jurors **unanimously** found the accused **guilty** of the crime of forgery of public, commercial, or private bank documents by a person not being a Public Officer as mentioned in the seventh count of the bill of indictment not as principal but as an accomplice to the principal in the commission of this crime.

Consequently, this Court declares **Michael EMMANUEL**:

1. **Guilty** under the First Count of the bill of indictment as mentioned above (that is to say 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 Rahal Gdid (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));
2. **Not Guilty** under the Second Count of the bill of indictment, (that is 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 Rahal 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)) and therefore acquits him from the same count.

3. **Not Guilty** under the Third Count of the bill of indictment, (that is 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 Rahal 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's mother Maria Agius) in manifest jeopardy, caused harm to the body or health of such other person (Maria Agius)) and therefore acquits him from the same count.
4. **Guilty** under the Fourth Count of the bill of indictment, (that is 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 Rahal Gdid (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).
5. **Guilty** under the Fifth Count of the bill of indictment, (that is 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 Rahal Gdid (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).

6. **Guilty** under the Sixth Count of the bill of indictment, (that is guilty of having on the fourteenth (14th) day of September of the Year Two Thousand and Eighteen (2018), in Rahal Gdid (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).
  
7. **Guilty** under the Seventh Count of the bill of indictment, (that is 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 **not as principal but as accomplice with the perpetrator of the crime**).

Having seen the updated criminal record sheet of the accused;

Having heard the submissions in relation to the punishment that ought to be meted out to Michael EMMANUEL, a summary of which is set out below:

A. The Attorney General stated that:

1. Michael EMMANUEL was found guilty of the most heinous crime against Maria Lourdes Agius. He made her suffer a slow and painful death.
2. Michael EMMANUEL killed her at her place of residence, a place which ought to be a safe haven for every person.

3. Michael EMMANUEL showed complete indifference in her regard as well as showed no remorse for his actions.
4. This was a case of intimate partner violence which should attract a severe punishment against those who commit such heinous crimes.
5. The 8/1 verdict was far from the legal minimum. Although at law it was not a unanimous vote, in practice such a vote was deemed to be tantamount to a unanimous one.
6. In article 211 of the Criminal Code, the Law clearly states that whosoever shall be guilty of wilful homicide shall be punished with imprisonment for life.
7. It was true that article 492(2) of the Criminal Code said that it shall be lawful for the Court to award a sentence of imprisonment for a term of not less than twelve years in lieu of the punishment of imprisonment for life if, in establishing a fact involving the latter punishment, the jury shall not have been unanimous. But this article did not lay down the rule that Courts cannot give life sentences when the jury was not unanimous. This article gave a discretion to the Court not to apply life imprisonment and it did not establish a hard and fast rule. So, by article 492(2) of the Criminal Code, the Court was not obliged not to impose a life sentence.
8. This became even stronger in a case like this where the verdict of the jury was eight votes in favour and only one against.
9. Apart from the fact that the accused was found guilty of the crime of wilful homicide, the accused was also, unanimously, found guilty of another two criminal offences. This gave rise to another legal reason stemming from the provisions of article 17(a) and 17(b) of the Criminal Code. According to article 17(a) of the Criminal Code a person guilty of more than one crime liable to punishments restrictive of personal liberty, one of which is for life, shall be sentenced to this punishment with the addition of solitary confinement. However, section 17(b) of the Criminal Code said that a person guilty of more than one crime liable to temporary punishments restrictive of personal liberty, shall be sentenced to the punishment for the graver crime with an increase varying from one-third to one-half of the aggregate duration of the other punishments;
10. The Attorney General made reference to the cases decided by this Court in re: **The Republic of Malta vs. Bojan CMELIK** decided on the 13th October 2021 as well as **The Republic of Malta vs. Nizar I Mustafa Al Gadi** decided on the 6th November 2015 wherein this Court had awarded the punishment of imprisonment for life together with solitary confinement.
11. The Attorney General concluded that the accused committed these crimes deliberately and with full knowledge and

understanding. Any mental issues that he claimed were not proven. In any case Maltese Law did not provide for the concept of diminished responsibility.

Having heard the submissions made by Dr. Lara Dimitrijevic acting on behalf of the family of the victim Maria-Lourdes Agius and Maria Agius, duly admitted as injured party in these proceedings who declared that she was adhering to the submissions made by the Attorney General.

Having heard the submissions made by Dr. Simon Micallef Stafrace for the accused, by reference to the punishment to be meted out to Michael EMMANUEL, namely:

1. In this case the verdict of the Jury by reference to the first count of wilful homicide was eight votes in favour and one against. That meant that the Jury was not unanimous, no matter what the Prosecution says about their practical understanding of the case.
2. Even though the punishment for wilful homicide was life imprisonment, the Law allowed the Court discretion to impose a lesser punishment in those cases that warrant such a punishment.
3. The argument raised by reference to article 17(a) of the Criminal Code did not mean that the Court was obliged to impose a life sentence in this case. The provisions of article 492(2) of the Criminal Code still applied.
4. In this case the Jury verdict was eight votes in favour and one against. This showed that one member of the Jury did not find the accused guilty. This vote had to be respected by the Court through its punishment which should not be life imprisonment.
5. The cases quoted by the Prosecution, and mainly **The Republic of Malta vs. Bojan CMELIK** although still a case of wilful homicide was much different from this case. In this case of Michael EMMANUEL, the Court needed to take note of the mental state of the accused as shown in the report of the Psychiatrist that was found in the record of the proceedings.

Having seen article articles 17(a)(b) and 492(2) of the Criminal Code;

Having seen that the clear direction stemming from case law of Courts of Criminal Jurisdiction, including those delivered by the Court of Criminal Appeal in its Superior Jurisdiction, including **Ir-Repubblika ta' Malta vs. Dominic Bonnici** of the 11th November 2004 it was clearly stated that punishments must serve as a deterrent and cases of physical violence



must, as a rule be punished by effective imprisonment sentences; and the more vulnerable the victim, the harsher the punishments must be.

This Court visited also other earlier cases decided by the Court of Criminal Appeal showing that on the other hand, in the case of verdicts that are not unanimous in cases of wilful homicide, the Criminal Court applied the provisions of article 492(2) of the Criminal Code. These include: **Ir-Repubblika ta' Malta vs. Charles Steven Muscat** of the 8th June 2006 (6 votes to 3); **Ir-Repubblika ta' Malta vs. Jason Decelis et** of the 25th September 2008 (6 votes to 3); **Ir-Repubblika ta' Malta vs. Joseph Zammit** of the 20th January 2011 (7 votes to 2).

Now in the case of Michael EMMANUEL, while it was true that the Jury was not unanimous, however the verdict returned by them was a very clear and strong one wherein by eight (8) votes in favour and only one (1) against the Jury found Michael EMMANUEL guilty for the wilful homicide of Maria-Lourdes Agius. Percentagewise that adds up to eighty nine percent (89%) of the total jury votes.

The same Jury also found the accused guilty of causing slight bodily harm to Maria-Lourdes Agius and her mother Maria Agius. Even here the votes of the Jury were high – eight votes to one (therefore eighty nine percent (89%) of the total jury votes) and seven votes to two (which adds up to seventy eight percent (78%) of the total jury votes) respectively.<sup>1</sup>

Then the Jury turned another two unanimous votes thereby finding the accused guilty of the sixth count, and of the seventh count albeit in his capacity as an accomplice with the principal.

Clearly therefore the Jury's assessment of the facts of the case was highly meticulous and they were deeply convinced of the accused's guilt by reference to the first, fourth, fifth, sixth and seventh counts of the bill of indictment. This high degree of culpability must now be reflected in the punishment that this Court is by Law duty bound to mete out.

---

<sup>1</sup> It is to be noted that by reference to these two Counts, the Jury qualified their verdict by aggravations that were not included in the bill of indictment. So while the Attorney General, for some reason, failed to include the aggravations mentioned by article 222(1)(a) and 202(h)(iv)(v) of the Criminal Code by reference to the slight bodily harm of Maria-Lourdes Agius, the sharp eyed Jury felt the need to include that aggravation in their verdict for the fourth count. Furthermore, whereas the Attorney General failed to include the aggravations mentioned by article 222(1)(a) and 202(h)(v) of the Criminal Code, the said Jury decided to qualify the guilt of the accused under the fifth count of the bill of indictment also with the aggravation mentioned under the said articles of the Criminal Code. However it is to be noted that once that the Attorney General did not accuse Michael EMMANUEL with these aggravations as well, this Court could not pass judgment *in peius*, rendering his position worse than that with which he was formally accused in the bill of indictment.

The sentence for the crime of wilful homicide **is** imprisonment for life. The wording of the Law is clear. **Whosoever shall be guilty of wilful homicide shall be punished with imprisonment for life.** This punishment was fixed by Law, and its imposition was phrased in mandatory fashion.

It was true that the Criminal Court had an element of discretion granted to it by article 492(2) of the Criminal Code. This article was to be considered as special law applicable to proceedings before a trial by Jury, rather than a rule of general application, like article 17 of the Criminal Code. Article 492 of the Criminal Code therefore granted this special discretion to the Criminal Court in case of Jury verdicts that were not unanimous. Yet this discretion was to be exercised cautiously in wilful homicide cases given that it entailed a deviation from the punishment that was specifically fixed by Law. This discretion could be exercised in those cases that deserved the exercise of this discretion. The stronger the verdict finding the accused guilty of the crime of wilful homicide, the closer it is to unanimity, the less likely would a Criminal Court be willing to deviate from the punishment fixed by Law for the crime of wilful homicide, which **is** life imprisonment.

In point of fact, an analysis of the cases dealing with crimes of wilful homicide decided by this Court and reviewed by the Court of Criminal Appeal, some of which were mentioned earlier on, reveals that this Court was more willing to apply the provisions of article 492(2) of the Criminal Code in cases where jury verdicts were not as strong as in this case. And the higher the jury verdict the less likely was it for article 492(2) of the Criminal Code to be applied.

The decision of the minority was to be respected; but the decision of the overwhelming majority likewise needed to be heeded, respected and find reflection in the punishment that was to be meted out by the Court.

As a rule, in case of a person who was sentenced to a crime that carried the sentence of imprisonment for life and who was also found guilty of another criminal offence together with it, had to be sentenced to imprisonment for life together with solitary confinement. The reason was that the law said that the person found guilty of more than one crime that were punishable with imprisonment, one of which is for life, he **shall** be sentenced to imprisonment for life with the addition of solitary confinement.

This legal argument was further strengthened by article 17(b) of the Criminal Code which provided that a person guilty of more than one crime liable to temporary punishments restrictive of personal liberty, shall be sentenced to the punishment for the graver crime with an increase varying from one-third to one-half of the aggregate duration of the other punishments. Article 17(b) of the Criminal Code did not cater for the case for life imprisonment, as this was catered for by article 17(a) of the Criminal Code.

But on the otherhand, article 492(2) of the Criminal Code was also a special legal provision applicable to trials before this Court which ended with a Jury verdict that was not unanimous. In its word and spirit, this article provided rules of special application that could also be taken into consideration by the Court in this case when deciding on the appropriate punishment to be meted out.<sup>2</sup>

Violent crimes, like the one proved in this case, were not acceptable absolutely, no matter who committed them, and no matter who the victim was. More so when they were committed against an intimate partner, in her own house, in her own bedroom, in her own sacred and safe-space. Violent behaviour like that shown by Michael EMMANUEL in this case hit at the very heart of the family values, peace and tranquillity that Maltese society deserved. It ruined lives: both of the dead, as well as those of the living relatives who remained behind – old and young. Violent behaviour like the one in this case, killed not only the targeted victim, but it also morally and psychologically killed her loved ones. Their lives will never be the same again. And nothing will bring back their killed loved one. No matter who committed the violent act leading to the killing of a human

---

<sup>2</sup> Article 492(2) of the Criminal Code gave this Court the discretion and flexibility to mete out a punishment which was lesser than the maximum allowed by Law: life imprisonment in those cases where the verdict of the jury would not have been unanimous. The Law did not expressly exclude the applicability of article 492(2) of the Criminal Code in those cases where the accused would also be found guilty of another crime liable to punishment restrictive of personal liberty. So this Court was given the discretion not to apply a life sentence in case where the Jury verdict was not unanimous independently whether this person would have been found guilty of other crimes as well. The interpretation given by the Attorney General to the correlation between articles 17(a) and 492(2) of the Criminal Code in this case would see this Court completely deprived of its said discretion in those cases where the jury is not unanimous, a life sentence would be deserving and proportionate but where solitary confinement together with it would not. So, where the jury verdict was unanimous, and a person was found guilty of a crime entailing the punishment of imprisonment for life together with another crime liable to punishment restrictive of personal liberty, this Court would have no discretion at all and would be obliged to impose a sentence of life imprisonment together with solitary confinement. But where the Jury verdict was not unanimous, and once that the Criminal Code did not exclude the applicability of article 492(2) of the Criminal Code in case where the accused would also be found guilty of another crime liable to punishment restrictive of personal liberty, this Court still retained the discretion to award any custodial punishment short of that absolute maximum punishment awardable in that particular, provided such punishment was not less than twelve years imprisonment.

being, be he Maltese or foreigner alike, **once convicted**, had to face the full rigour of the Law, especially when a Jury returned a verdict so strong as in this case.

On the otherhand, this Court has also taken into account the submissions made by Defence. Indeed, when meting out punishment, the Court had to take into consideration the specific circumstances of the case, including those of the victims and of the accused as well as those other factors that distinguished one case from the other. While this case did bear more resemblance to the **Nizar I Mustafa AL GADI** case than the **Bojan CMELIK**, there were also various points of distinction between these cases. All of them deal with heinous crimes and cruel cold-blooded murders. But the circumstances were far from identical. In such cases, the sentencer took into consideration various factors including:

- whether the offender showed remorse or not;
- whether there was evidence of premeditation;
- whether there was any motive behind the killing;
- whether the case involved intimate partner or domestic violence;
- whether the offender co-operated with the Police or admitted his role in the commission of the crime;
- whether the accused was also victim of crime; or
- whether the accused was under some form of pressure to commit the offence;
- whether the accused was alone in the commission of the offence or
- whether he formed part of a criminal organisation;
- whether the accused was also a vulnerable person, had behavioural or specific issues or of a young or old age;
- whether the accused had other previous convictions or whether he had a clean criminal record;
- whether the accused had a principal role in the commission of the crime or whether his role was marginal;
- whether the accused adopted a sophisticated modus operandi or whether he resorted to crude ways;
- whether the accused used a high level of violence and cruelty in the commission of the crime, including whether he subjected his victims to a high degree of agony, pain and suffering;
- whether the means used for the commission of the crime were dangerous also to other Members of the community or whether no particular means were used, etc etc.

These considerations, along with others that result from case law led this Court to the following judgment:

## **CONSEQUENTLY**

**After having seen articles 17(a)(d)(h), 23, 31(1)(a), 42(a), 183, 211(1)(2), 214, 215, 221(1), 222A(1), 338(ee), 492(2) and 533 of the Criminal Code this Court condemns Michael EMMANUEL:**

- 1. to imprisonment for life**
- 2. as well as to the payment of the sum of nine thousand, eight hundred thirty nine euro ninety six cents (€9839.96) representing the costs incurred in connection with the employment in the proceedings of any expert or referee, including such experts appointed in the course of the inquiry, within one year from today.**

**Aaron M. Bugeja,  
Judge**