



**The Courts of Magistrates (Malta)**  
**As a Court of Criminal Judicature**

**Magistrate Dr. Yana Micallef Stafrace LL.D**

**The Police**

**(Inspector Charlotte Curmi)**

**Vs**

**Rudy Cojo Marfil**

**Collisions Sitting**

Today, 27<sup>th</sup> May 2024

The Court,

Having seen the charges against **Rudy Cojo Marfil** son of N/A born on the 05/05/1969 and residing at Fl 8, Daniel's Apartments, Triq il-Kbira, San Guzepp, Hamrun holder of Maltese identity card number 191806A charged with having on the 3<sup>rd</sup> December 2019 at around 11:30hrs in Rabat (Malta) drove veichle BUS619;

1. In a negligent manner

2. And drove mentioned vehicle in a dangerous manner;
3. And drove the mentioned vehicle in a reckless manner;
4. And through imprudence, carelessness, unskillfulness in his art or profession, or non-observance of regulations, and caused Rose Spiteri involuntary grievous injuries as certified by Dr. Karim Abdallah MD of MDH and / or other doctors.

The prosecution requests that the mentioned person be disqualified from all his driving licences.

The Court is requested that in case of guilt, in addition to inflicting punishment the employment in the proceedings of any expert or referee and this according to Article 533 of Chapter 9 of the Laws of Malta.

Having seen the affidavit of PS 125 Malcolm Mifsud presented with the writ of summons. Having heard the evidence of PS 1147 Antoine Fenech; Having seen the affidavits of Stephen Cachia, representative of Transport Malta and Dr Karim Abdalla exhibited in the sitting of the 1 December 2022; Having heard Rita Azzopardi who gave evidence on the 29 March 2023.

Having seen that on the 1 December 2022 the court appointed Dr Mario Caruana to listen to the testimony of Rose Spiteri in the presence of the accused.

Having seen that on the 29 March 2023 the defence objected to the viewing of CCTV RA 3 since the person who downloaded the CCTV did not confirm it on oath. The prosecution states that it is in agreement. The Court orders that the CCTV Doc RA 3 is not to be viewed by the Court.

Having seen that the Court will not allow the viewing of Dok B exhibited by PS 1147 Antoine Fenech in view of the fact that the witness from Transport Malta Rita Azzopardi clearly stated that she was not the person who downloaded the video and the case was put of specifically for this evidence.

Having seen that the Prosecution requested that the case be put off in order that the witnesses Rose Spiteri evidence is heard in her residence. The defence objected to this request. The court in view of the fact that this was appointment in open court with the presence of all the parties involved, does not accede to the request as these are summary proceedings.

Having seen that the prosecution rested its case in the sitting of the 29 March 2023 and that the accused is not going to testify in these proceedings.

Having heard the oral submissions of the parties;

Having seen articles 15(1)(a)(2) of Chapter 65 of the Laws of Malta, Articles 226 (1)(a), 533 of Chapter 9 of the Laws of Malta.

Having seen all the documents, evidence and all the acts of the case.

Considers,

Evidence produced by the prosecution

**Affidavit of PS 125 Malcolm Mifsud** filed with the writ of summons. The witness declared that on the 3<sup>rd</sup> December 2019 at around 11:30hrs, the Rabat police were informed that, an elderly woman had fallen on a bus and an ambulance was summoned at Triq tal-Muzew, Rabat, Malta.

On site bus number BUS 619 was observed parked in the bus stop, in the street above mentioned. Mrs Rose Spiteri was noticed in pain. Mrs Spiteri told the police that after she scanned the ticket and was looking for an available seat on which to sit on, the driver, started to drive the bus so suddenly, that she lost her balance and fell and got hurt.

Further enquires were held at the Rabat Police station with the bus driver, namely Rudy Cojo Marfil. Same was given his rights and also to seek a lawyer in which he signed to refuse at the time. The accused gave his version of the events.

Mrs Rose Spiteri was taken to Mater Dei Hospital by an ambulance and was later certified by Dr Karim Abdallah of MDH to be suffering with grievous injuries. Mr Rudy Cojo Marfil was informed that charges were being issued against him.

**Affidavit of Stephen Cachia**, in representation of Transport Malta exhibited in the sitting dated 1 December 2022. From this affidavit and attached documents in results that vehicle BUS 619 of the make Otokar Vectio Route Bus is registered in the name of Konrad Pule on behalf of Malta Public Transport Services. The vehicle was registered since 1 July 2015.

The accused, Marfil Rudy Cojo, had a valid driving licence to drive the above-mentioned vehicle on 3 December 2019.

**Affidavit of Dr Karim Abdalla** exhibited during the sitting of the 1<sup>st</sup> December 2022. The witness confirms on oath that he has examined Rose Spiteri on the 3<sup>rd</sup> December 2019 and she was found to be suffering from left pertochanteric fracture of hip requiring surgical / orthopaedic intervention. The wounds were of a grievous nature, saving complications.

**Evidence of PS 1147 Antuan Fenech** tendered on the 1<sup>st</sup> December 2022. He swears that he has been presented by his colleague PC 259 a copy of footage that was extracted by public transport Arriva. He states "I believe so certain footage of BUS no. 619 that the bus number 619 has a CCTV system installed in it inside and outside from the footage." . . . "there is enough action that I couldn't understand what happened that I made 14, 15 photos extraction of what happened during the incident same photos have been forwarded to PS 259 on the 16<sup>th</sup> January 2020."

**Rita Azzopardi** gave evidence on the 29 March 2023. She confirms that the Rudy Ojo Marfil is a driver employed with the Malta Transport Authority. He was driving BUS 619 on the 3<sup>rd</sup> December 2019 at around 11:30. He is still employed with the Malta Transport Authority. When asked whether she was the person who downloaded the footage from the DVR and transcribed it to CD she re replies that she did not.

Considers

In this case the Court considers that the prosecution did not produce any direct evidence linking the injuries sustained by Mrs Rose Spiteri, who it is noted did not give evidence in these proceedings, with criminal culpability of the accused. The argument of

the prosecution that the affidavit of the PS 125 Malcolm Mifsud relayed the version of events of Mrs Rose Spiteri, is hearsay evidence and hence inadmissible.

It has therefore not been proved beyond reasonable doubt that the accused is in any way criminally responsible for the charges raised against him.

#### Decision

Consequently for the above-mentioned reasons, the Court, after having seen articles 15(1)(a)(2) of Chapter 65 of the Laws of Malta, Articles 226 (1)(a), 533 of Chapter 9 of the Laws of Malta finds the accused **Rudy Cojo Marfil** not guilty of all charges and acquits him of all charges against him.

The Court orders that within six (6) working days, the Attorney General shall be given access to a scanned copy of the records, together with access to a scanned copy of the judgment.

**DR. YANA MICALLEF STAFRACE LL.D.**

**MAGISTRATE**

**Doris Serpina Sciberras**

**Deputy Registrar**

