



**In the Court of Magistrates (Malta)
as Court of Criminal Judicature**

(Jobsplus Sitting)

Magistrate Dr. Donatella M. Frendo Dimech LL.D., Mag. Jur. (Int. Law)

Today, the 18th day of February, 2025

**The Police
(Inspector Charlotte Curmi)**

-vs-

Rajan Bharwani, bearer of Identity Card No. 175068M

The Court,

Having seen the charges brought against the person charged namely:

1. For having on the 4th May, 2023 and on previous dates in the outlet called Blade & Bean, situated in Valletta, employed Ernard Duli with Identity Card No. 361422A, without notifying Jobsplus;
2. Furthermore for having employed Ernard Duli with Identity Card No. 361422A, who is not a citizen of Malta, other than such person was in possession of a single permit or employment licence.

Having heard witnesses.

Having seen all the acts and documents exhibited;

Having read the note of submissions filed by the parties;

Having heard the prosecution and defence counsel make their submissions;

Having seen the note filed on the 12th February, 2025 wherein the defendant found no objection to the judgement being pronounced in the English language.

Considers,

Jobsplus **Inspector John Calleja** testified that when on the 4th May, 2023 at around 9.40am, together with Inspector Carmel Bonello, he inspected the premises Blade & Bean situated in Merchants Street, Valletta, he was greeted by a certain Ernard Duli. There were no clients at the time and Duli was alone. **Duli admitted that he was working as barber and that he had a pending application with Identity Malta. Duli proceeded to show the inspectors the application number which he had registered on his phone and which bore reference number 94985555.**

At this point it must be underlined, given that learned defence counsel raised the issue in its cross-examination of this witness, that the Inspectors were not obliged to caution Duli, given that he was not the one being investigated, let alone even a suspect at that point, but his employer was the subject of their inspection and any potential investigation!

Bonello continues that another employee was interviewed, a certain Kain Galea, who was found to be regularly employed. Duli, who was wearing a black top, then gave the inspectors the mobile number of his employer the defendant 99495415. Whilst the witness testifies that the inspection was carried out following an anonymous report made to Jobsplus regarding Ernard Duli, an email dated the 2nd May 2023 shows that Jobsplus intervention was sought following a request by the Migration section within the same entity after Duli had filed a case with the Office of the Ombudsman.

The report drawn up by the Inspectors was also presented.¹ In the Interview sheet presented together with the said report one notes that it features the defendant's mobile phone number as well as Duli's details such as his identity card number, his nationality and more importantly his date of birth and nationality which manifests that he readily provided his identity card as declared by Inspector Calleja.

¹ Dok.JC

Calleja finishes his testimony by stating “... *morna hemmhekk specifikatament ghalihu staqsejtu jiena, qalli ‘iva, jiena nahdem bhala barbier pero ghandi l-process ghaddej’*”.

Carmel Bonello, whilst corroborating his colleague’s version of events, adds that when Duli was interviewed besides informing the inspectors that his application process with Identity Malta was ongoing, his wife, who was pregnant at the time, held a work permit. Upon entering the barber’s shop Duli greeted them, only to be joined by Kain Galea who had crossed the street from another shop.

Kain Galea’s testimony, is riddled by inconsistency, as he starts by stating that Duli was on the premises only because he wanted to apply to work with them when evidence shows that the application to work as a barber was done long before then and was followed up with an application to work filed with Identity Malta way back in October 2022! Galea makes no sense at all when he states that Duli used to spend his days in the shop, which as stated, was found to be manned only by Duli. The only truth uttered by this witness is that on the day in question, and as borne out by his Jobsplus records he worked in Galea’s, across the street from Blade & Bean.

Galea’s untruthful testimony comes to the fore when he finds no explanation to the question as to how, once he was working in the opposite shop, he could simultaneously manage to accommodate customers in Blade & Bean!

Unsurprisingly, and similarly to defendant’s testimony he mentions that, on the day, the shop was supposed to have a further two employees, his brother Lee Galea and a certain Nasir. None of these two employees were called to testify by the defence and nor were their employment records exhibited by the defendant. It would have been interesting to see whether Lee Galea worked with Blade & Bean given that he is listed as Kain Galea’s employer as of the 1st October 2023!²

What Galea lets slip is that Duli often cut his hair as well as that of other staff members. Although he seeks to drive the message home that Duli was not remunerated, in itself a statement he could only know through the defendant as thus tantamount to hearsay, and thus lacks probative value.

² Dok.JP

The concerted effort made to testify in a manner to exculpate the defendant reaches its apex when Galea testifies that the defendant gave him and other employees instructions not to allow anyone without a single work permit to work at Blade & Bean.

The court fails to see how this could possibly make sense since remuneration is made by defendant and not employees. How could one shift responsibility of employment on employees who, by this declaration, it appears that these were in the habit of allowing every Tom, Dick and Harry to walk into the barber shop, pick up a pair of scissors and start tending to client's hair! Employees are hired and fired by employers not staff members!

This statement only serves to strengthen the prosecution's case.

On the inspection date, Kain Galea was registered as employed with Galea's Salon on a full-time basis and on a part-time basis with the defendant in Hamrun.³ Nowhere does it appear that he was employed at the Blade & Bean but in Galea's salon sited across the street opposite Blade & Bean, the shop where he was working and which he exited to join Duli when he saw the inspectors entering the former premises and questioning Duli. What need did Galea have to join Duli if not to attempt any dire consequences for both Duli and the defendant? So much so that at no point in time did Galea inform the inspectors that Duli was not an employee but simply collaborated with the inspectors and gave them his details.

Thomas Barry, from Identità, confirmed that an application was filed by the defendant in October 2022 and this was refused on the 18th May 2023.⁴ Thus the declaration made by Duli to the Inspectors was confirmed!

Rajan Bharwani chose to testify and began his testimony by stating that he employed full-timers and 3 part-timers. Duli had sought employment with his establishment as a barber so he kick-started the process to get him a single work-permit. Duli used to frequent the premises on a daily basis to check if his permit was issued.

The Court cannot but observe how ridiculous this assertion is.

A simple phone call would have sufficed and when spoken to by inspectors Duli said nothing of the sort, simply that he was on the premises working as a barber.

³ Dok.JP

⁴ Dok.TB

In fact this inconsistency grows when the defendant himself states that Duli used to call him around twenty times daily. The question arises if he was in touch with him over the phone what need did Duli have to go around an empty shop – when the employer was not present – if it was only to enquire about his application when he could have asked for that information over the phone in one of the twenty phone calls???

Although the inspection took place in May 2023 and the defendant testified thirteen months later in June 2024, he still asserts that he has no idea why his other employees were not present in the shop that day. Surely if he was paying them to be present and they were not, coupled to the dire predicament he was facing through these proceedings, one would have expected that thirteen months provided sufficient time for him to establish that query and to produce them as witnesses in his defence to counter-act the prosecution's case.

He goes on to state that *“dan kien mohhu ghax applikajt nista nahdem”*, the very stance that Duli appears to have taken when questioned by Jobsplus inspectors! To add insult to injury he attributes Duli's “misconception” – a version which the court refuses to accept as being truthful or indeed credible – that this attitude was due to his Albanian culture !!!! Truly an astonishing and ludicrous declaration as who, in the world, would continue turning up to work if he was not getting remunerated? The more so, if occasionally he would cut and style staff members hair!

The court also notes that the defendant makes no mention of this fact which was stated by the overzealous Kain Galea, eager as he was to defend Mr. Bharwani without as much as concerning himself over the consequences of perjury. In truth this was out of desperation to try and find a plausible reason why Duli used to be present on the premises, but unfortunately when the inspection was carried out, there was no staff member getting a haircut!

Strangely enough the defendant presented a copy of his employees' FSS forms which unsurprisingly does not contain that pertaining to Duli. **Not even an infant would be so gullible to believe that a person who was illegally employed would have an FSS declaration to show for it.**

In the said documentation the business address provided is that of “720 High Street, Hamrun”. Nowhere does the said documentation show that the said employees were working in the establishment styled as Blace & Bean. In fact “720, High Street Hamrun” features as the address for the shop Little India and before

that the Bargain Depot which was also a stationery. In fact Bharwani is caught up in his web of fabrications when he testifies that he is the owner of "*wiehed tax-xaghar il-Belt u kelli iehor stationery il-Hamrun*".

In truth the Court finds itself perplexed if not also incensed by this lack of respect towards its intelligence and common sense, which the defendant irreverently demonstrates towards it.

Bharwani knew that Duli was under impression he could work once he had applied for a permit to work. Hence this ties in perfectly with Duli's reaction when he was questioned by the inspectors, finding no qualms for being on the premises and going so far as to also show them his work permit application number.

Moreover, from the inspector's testimonies, it clearly results that it was only Duli who was in control of the premises. No other employee was present. Had defendant wished to rebut this finding, he had ample opportunity to do so when presenting his case, but failed to do so! This militates strongly in favour of the prosecution's case showing that it was **Duli who was exclusively running the premises** on the day of the inspection. The alternative would be that the defendant went a mile further than having an open house, and opted for an open shop, for all and sundry to enter and partake of his wares! Bonello is very specific when he states that "*il-business kien miftuh*".

In view of the foregoing the Court, after seeing articles 17(f) and 31 of the Criminal Code and articles 36, 43 and 52 of the Employment and Training Services Act Chapter 594 of the Laws of Malta, finds the defendant guilty of the charges brought against him and condemns him to a fine, multa, of **three thousand and five hundred Euros (€3,500)** payable in monthly instalments within two years.

Given that in this case the violation concerned only one employee, the Court will not be applying the provisions of Article 30 of the Criminal Code.

Dr. Donatella M. Frendo Dimech
Magistrate