



## COURT OF CRIMINAL APPEAL

**Hon. Mr. Justice Dr. Neville Camilleri**  
**B.A., M.A. (Fin. Serv.), LL.D., Dip. Trib. Eccles. Melit.**

**Appeal Number 518/2021/1**

**The Police**

**vs.**

**Ali Muuse Igaale**

Today 30<sup>th</sup>. of July 2025

The Court,

Having seen the charge brought against the appellant **Ali Muuse Igaale**, holder of Somali Passport P00968354 and Maltese Passport MT901352, charged in front of the Court of Magistrates (Malta) as a Court of Criminal Judicature for having:

1. in these Islands on the 22<sup>nd</sup>. August 2021 at about 09.45hrs, at the Malta International Airport, Gudja failed to declare to the Commissioner for Revenue, that he was carrying a sum equivalent to Euro 10,000 or more in cash, whilst leaving

Malta, in breach of Regulation 3 of the Cash Control Regulations (S.L. 233.07).

The Court was requested that, in pronouncing judgment or in any subsequent order, sentence the person/s convicted, jointly or severally, to the payment, wholly or in part, to the Registrar of the costs incurred in connection with the employment in the proceedings of any expert or referee, within such period and in such amount as shall be determined in the judgment or order, as per Section 533 of Chapter 9 of the Laws of Malta.

Having seen the judgment delivered by the Court of Magistrates (Malta) as a Court of Criminal Judicature on the 18<sup>th</sup>. August 2022 wherein the Court, upon the guilty plea of the accused, found the accused guilty as charged and, after having seen Regulation 3 of the Cash Control Regulations (S.L. 233.07), condemned him to a fine (*multa*) of eighty five thousand, six hundred and one Euro and forty cents (€85,601.40).

Having seen the appeal filed by the appellant on the 5<sup>th</sup>. of September 2022 by which he requested this Court to:

*“i. confirm the said appealed decision in so far as the appellant was found guilty, upon his own admission, of the sole charge brought against him, and;*

*ii. in the light of grievance “A”, on the basis of Article 46(3) of the Constitution of Malta as well as on the basis of Article 4(3) of Chapter 319 of the Laws of Malta, refer the constitutional matter expounded upon therein to the First Hall of the Civil Court in its Constitutional Jurisdiction so that the said Court may decide whether the Court of First Instance’s decree dated 23<sup>rd</sup>. August 2021, which validated the appellant’s continued detention by turning down his request for bail has violated his fundamental human right as protected by Article 5(1)(c) and (4) of the European Convention on Human Rights and if in the affirmative, to accord all necessary effective remedies to remedy such violation, and;*

iii. subsequently proceed, in the light also of grievance "A" and request number (ii) and in terms of Article 415 of Chapter 9 of the Laws of Malta, to overturn the decree issued by the Court of First Instance dated 23<sup>rd</sup>. August 2021 insofar as appellant's bail request was turned down and to consequently annul and declare as invalid said decree, and;

iv. in light of grievance "B", on the basis of Article 46(3) of the Constitution of Malta as well as on the basis of Article 4(3) of Chapter 319 of the Laws of Malta, refer the constitutional matter expounded therein to the First Hall of the Civil Court in its Constitutional Jurisdiction so that the said Court may decide whether the hefty fixed punishment established by Regulation 3 of Subsidiary Legislation 233.07 of the Laws of Malta as it currently stands violates the appellant's fundamental human right as protected by Article 1 to Protocol 1 of the European Convention on Human Rights and Article 37 of the Constitution of Malta and if in the affirmative, to accord all necessary effective remedies to remedy such violation and;

v. Subsequently proceed, in light of grievance "B" and request number (iv), to reform the pecuniary punishment inflicted on the appellant by substituting it with a less onerous and more equitable punishment."

Having seen all the acts and documents.

Having seen that this appeal had been assigned to this Court as currently presided by the Hon. Chief Justice Mark Chetcuti on the 9<sup>th</sup>. of January 2023.

Having seen the updated conviction sheet of the appellant exhibited by the Prosecution as ordered by the Court.

Having seen the judgment delivered by the First Hall Civil Court (Constitutional Jurisdiction) on the 12<sup>th</sup>. of February 2024 (*a fol. 235 et seq.*) as a consequence of the constitutional reference made by this Court on the 21<sup>st</sup>. of March 2023 (*a fol. 226 et seq.*).

Having seen that the judgment delivered by the First Hall Civil Court (Constitutional Jurisdiction) on the 12<sup>th</sup>. of February 2024 (*a*

*fol. 235 et seq.*) was revoked by means of a judgment delivered by the Constitutional Court on the 24<sup>th</sup>. of June 2024 (*a fol. 256 et seq.*).

Having seen that following the judgment delivered by the Constitutional Court on the 24<sup>th</sup>. of June 2024, the Subsidiary Legislation 233.07 of the Laws of Malta was amended on the 13<sup>th</sup>. of June 2025 through Legal Notice 103 of 2025.

Having heard the final oral submissions.

### **Considers**

That this is a judgment regarding an appeal filed by the appellant following the judgment delivered by the First Court on the 18<sup>th</sup>. of August 2022.

That in his appeal application the appellant brings forward two grievances which have already been dealt with by this Court in the decree delivered on the 21<sup>st</sup>. of March 2023 as a consequence of which decree the Constitutional Court gave the final judgment on the 24<sup>th</sup>. of June 2024. Following this judgment, the law has been amended as stated above.

That from the acts of the proceedings it results that the appellant had registered a guilty plea in front of the First Court and that judgment was delivered by the First Court on the 18<sup>th</sup>. of August 2022. In his appeal application, the appellant does not contest his guilty plea in front of the First Court.

That what needs to be decided by this judgment is whether this Court should uphold the request contained in the appeal application where the appellant requests this Court to reform the pecuniary punishment inflicted on him by the First Court by substituting it with a less onerous and more equitable punishment.

That it results that when a search was carried out on the appellant's person and belongings he was found travelling with

approximately one hundred and sixty thousand Euro (€160,000) in undeclared cash from Malta to Istanbul.

That Regulation 3(5) of Subsidiary Legislation 233.07 of the Laws of Malta now reads as follows:

“(a) Notwithstanding the provisions of sub-regulation (6), when the sum mentioned in sub-regulations (1) and (3), which is falsely declared or not declared, is of a value of more than ten thousand euro (€10,000) and up to thirty thousand euro (€30,000), the Commissioner may, with the agreement of the person referred to in sub-regulation (1), impose a penalty of fifteen percent (15%) of the sum carried in excess of ten thousand euro (€10,000) or the equivalent, or a penalty of twenty-five euro (€25), whichever is the highest, in lieu of criminal proceedings, by signing an agreement. The signing of this agreement, which may be entered into up to the date of delivery of the final judgment by the Court, shall also mean that the person is renouncing any claim he may have against the Commissioner or the Attorney General resulting from the case. In the absence of such agreement, the person concerned shall on conviction, be liable to a fine (*multa*) of fifty euro (€50) and the Court shall order the confiscation of the sum of not less than twenty per cent (20%) but not more than fifty per cent (50%) of the sum carried in excess of ten thousand euro (€10,000). This confiscation shall be carried out by the Commissioner.

(b) Notwithstanding the provisions of sub-regulation (6), if the sum mentioned in sub-regulations (1) and (3) which is falsely declared or not declared is of a value of more than thirty thousand euro (€30,000), the person referred to in sub-regulation (1) shall on conviction, be liable to a fine (*multa*) of one hundred euro (€100) and, the Court shall order the confiscation, which shall be carried out by the Commissioner, of not less than twenty

percent (20%) and not more than fifty (50%) of the sum carried in excess of ten thousand euro (€10,000):

Provided that in the absence of an agreement in terms of paragraph (a) or where the value is of thirty-thousand euro (€30,000) or more, the Commissioner shall detain the cash, or the equivalent, exceeding ten thousand euro (€10,000), or the whole amount where the cash is indivisible, and deposit that amount in the Depository as provided for in sub-regulation (10):

Provided further that in assessing what percentage is to be applied when imposing the confiscation, the Court shall take into account the sum which was falsely declared or not declared, the manner in which the amount in excess was concealed and any attempts to avoid detection, any assistance or cooperation with the authorities, and any other circumstance which the Court deems appropriate.” [emphasis added]

That it is crystal clear that the law now is less stringent than it was at the time that the appealed judgment was delivered. Hence the Court will accede to the request contained in the appeal application to reform the punishment meted out to appellant by the First Court.

That as regards the amount to be confiscated, this Court will take various factors into consideration, namely:

- the clean conviction sheet of the appellant;
- the fact that he registered a guilty plea in front of the First Court;
- the fact that the law had to be changed following the judgment delivered by the Constitutional Court on the 24<sup>th</sup>. of June 2024 (*a fol. 256 et seq.*);

- the fact the amount of approximately one hundred and sixty thousand Euro (€160,000) of undeclared cash the appellant was travelling with was not a small amount;
- the manner in which the amount in excess was concealed;
- the assistance or cooperation with the authorities.

That considering the above, the Court will accede to the request contained in the appeal application for the punishment meted out by the First Court to be substituted and notes that the amount to be confiscated ought to be that of thirty-seven thousand Euro (€37,000).

### **Decide**

Consequently, for all the above-mentioned reasons, this Court accedes to the appeal filed by the appellant and whilst:

- confirming that part of the appealed judgment where the appellant was found guilty of the charge brought against him;
- cancels and revokes that part of the appealed judgment where the appellant was condemned to pay a fine (*multa*) of eighty five thousand, six hundred and one Euro and forty cents (€85,601.40) and instead condemns the appellant to the payment of a fine (*multa*) of one hundred Euro (€100) and orders the confiscation of the sum of thirty-seven thousand Euro (€37,000).

---

**Dr. Neville Camilleri**  
**Hon. Mr. Justice**

---

**Alexia Attard**  
**Deputy Registrar**