



**QORTI TAL-MAGISTRATI (MALTA)  
BHALA QORTI TA' GUDIKATURA KRIMINALI**

**MAGISTRAT DR.  
LAURENCE QUINTANO**

Seduta tas-27 ta' Gunju, 2008

Numru 305/2008

**The Police  
(Inspector Bernard Charles Spiteri)**

**versus**

**Paul Llewellyn Griffiths**

The Court,

Having seen the charges laid against Paul Llewellyn Griffiths, son of Philip and Gilian nee McGarrigle born in South Africa on the 27<sup>th</sup> August 1979 of British nationality and having Passport Number 705056092

1. With having on the 12<sup>th</sup> April 2008 at Plush Bar and Club Paceville at 2.30 am forged currency notes or uttered any forged currency notes, denominated in Euros, knowing that the same were forged.

2. And at the same place and time, without lawful authority or lawful or reasonable excuse (the proof whereof shall lie on the person accused), purchased or received from any person, or had in his custody or possession a forged currency note denominated in Euro knowing that the same was forged.

The Court was also requested that if in the course of criminal proceedings it deems it necessary to order the destruction of the counterfeit currency or coins, it shall consult the Central Bank of Malta beforehand which can request the Court not to order the destruction but to pass them on to the Central Bank of Malta for examination

The Court saw the passport of the defendant, his conviction sheet, his statement to the police made on the 12<sup>th</sup> April 2008, the current incident report, the reply of the accused that he was not guilty of the charges laid against him, the appointment of an expert to examine the 50 Euro currency note to establish whether this is genuine or not, the appointment of Mr Martin Bajada for such a purpose (fol 19), the consent of the Attorney General that these proceedings will be summary, the consent of the accused that these proceedings should be summary, the current incident report which appears on page 55 up to page 58 and the documents exhibited on the 21st May 2008 which appear on page 79 to 81 of the court file and finally the decision to have judgement read out on the 27<sup>th</sup> June 2008.

The Court heard the witnesses on oath.

The Court heard the submissions made by the public prosecutor and the defence.

Considers.

Inspector Bernard Spiteri testified that on the 12<sup>th</sup> April 2008 the Paceville police received a report from a certain Mr Azzopardi who is the owner of the Plush bar that there

was a person who had a false 50 Euro note in his possession. The police contacted this person and took a statement from him.

In the statement the defendant said that he works in a motor yacht called Istros. He has been in Malta since October 2007. He said that he went to pay some drinks with a 50 Euro note. The barman crossed the note by a red marker and told him that it was a fake. Then he called the police and he was arrested. He did not know that the 50 Euro note was a false one and he was informed that it was so by the barman. He confirmed that the 50 Euro note was his. He thought that he had brought it from the boat but he also could have got it from the ATM. However he was informed that the ATM's do not give any 50 Euro notes. When asked whether somebody has given it to him, he said that he thought that it was part of the cash flow that he uses to buy parts for the boat. He is given money to buy these parts and then he gives them the receipts. He said that it was not the first time that he had used 50 Euro notes in Malta but it was the first time that somebody had told him that it was a false one.

He added that when he gave the 50 Euro note to the barman, the latter moved to other side of the bar and so the defendant had lost sight of him. The defendant said that he did not know if the barman had changed it or not. Finally he said that the police had searched his cabin in the morning and they had not found anything else.

In the cross examination the Inspector said that he had spoken to Mr Griffiths and also the barman. They said that the defendant had approached to barman to buy some drinks with this note and the barman told him that it was fake and gave it back to him. Sometime later he again approached another barman (fol 23).

Mark Fenech testified that the defendant had asked for drinks and he prepared the 5 or 6 drinks requested. The defendant offered the 50 Euro note. The witness said that he checked the 50 Euro note and then he went to see whether it was a genuine one by using the machine. He

told the defendant that it was a fake note and somebody else had paid instead of him. The witness said that he informed other barmen that the defendant had Euro notes which were not genuine. Then it transpired that the defendant tried to ask for drinks again by going to another barman. This happened on the same evening.

In the cross examination the witness said that the defendant was accompanied by a group (fol 30) and that they had been drinking for quite some time. At that time there were no 50 Euro notes in the bar and very few of these notes are used in order to buy drinks (fol 30). The witness said that there were other groups who had paid for drinks (fol 32). Moreover the witness was not in a position to say for how long the group had been drinking. However they may have been there for a long time. The witness said that when the till is brought by the manager, normally it has 20 Euro notes, 10 Euro notes, 5 Euro notes and so on. He denied having received any 50 Euro notes before the defendant handed him one. He also said that the Euro note had been crossed, not by himself but somebody else had done so after it had been offered for a second time.

Another witness was Dino Azzopardi who said that the defendant had given him a false 50 Euro note. He recognised the defendant who had given him the false 50 Euro note. The witness had checked the Euro note and went along with it to the manager and the manager made a cross on it. Then he gave it back to the defendant and the defendant gave him genuine money. In fact he paid by 5 Euro and 10 Euro notes. He confirmed that it was the 50 Euro note that the defendant had handed him because there was the cross made by the manager. He also said that another barman had warned him that the defendant had false notes. The witness gave him the drinks he requested, he took the money and then told the defendant that it was not a genuine note. He had taken the note after he had been warned about the defendant (fol 39). The manager made a cross on the note so that it could not be further in the bar.

In the cross examination, the witness said that as soon as he told the defendant that the 50 Euro note was false, the defendant gave him 15 Euro straightaway. The witness was quite emphatic that he had not been the first barman to serve the defendant and that the money was handed to him by the defendant and not by somebody else. He had paid in a 10 Euro and 5 Euro notes. The witness said that he had other 50 Euro notes in the till before the defendant paid. The witness also said that he had seen the group drinking for some time. He could not say whether the other barmen had received any 50 Euro notes because he is responsible only for his till.

Mr Mario Azzopardi took the witness stand and he said that the staff had informed him that the defendant had a false 50 Euro note. The first one was Mark and this was checked and found to be false and they informed the defendant that this was a false note and they gave it back to him. The security features were not there. He also warned the staff that the defendant had a false 50 Euro note and told them to be careful because he might try to do it again. They informed each other about this. The first time, one of his friends paid the bill. Soon after the defendant gave the 50 Euro note again to another barman and the barman checked it and said that this was false. The manager said that it was the same person who had handed him the 50 Euro note. The witness said that it was the same 50 Euro note and then he had a jen marker and put a cross on it so that it will not happen again another time. He also asked the defendant why he had tried to use it twice. The defendant had replied that he had got it from the bank. The witness said that the bank does not give false notes. The manager said that he had put on a cross the second time.

In the cross examination the witness said that he did not see the other barman giving the defendant the drinks. When the witness was asked whether he was aware had paid 6 or 7 times before, the answered that he had not served him because there were four staff members in the bar. The witness said that he had not taken note of the number of the note but he had checked it for the features.

PS Oscar Baldacchino said on oath that around 2.30am of the 12<sup>th</sup> April 2008 he had been informed by Inspector Keith Arnaud who was on duty at Paceville that a certain Paul Llewellyn Griffiths went to Plush Bar to buy some drinks using a 50 Euro note which was false. He said that the defendant had told him that the 50 Euro note had been obtained from the ATM.

This witness informed the defendant that the ATM's do not give any 50 Euro notes. Then he explained that he could have gotten it as part of his exchange when he went to buy parts. But he also said that since he was staying in Malta, he had never had any note larger than a 50 Euro so he could not have got that as a change. The defendant appeared a bit confused in his words.

In the cross examination the witness said that he had not been present during the statement. When asked by the defence lawyer that documents show that he had been paid in 100 Euro and 50 Euro to buy the spare parts, the witness replied that the defendant had informed that since he had been in Malta, the largest amount by way of currency was a 50 Euro note. The witness was not aware that the defendant had been drinking before. The witness also presented an incident report which appears on pages 55 onwards.

### **Witnesses for the defence**

Paul Llewellyn Griffiths, the defendant testified that he receives salary of about 4500 Euro a month plus tax and bonuses and he gets this through wire transfer and is paid by his boss. The defence lawyer read the statement that he made to the police and the defendant said that he confirmed that the note was in his possession. He also confirmed that the 50 Euro note was the one given to him by the barman. He explained that on the boat they get large cash transfers from agents and then the money is issued by the captain to the department. He gives him 100 Euro notes and so on to buy the parts. The witness said

that he had never before had any trouble with any money. He then explained that he went to buy drinks and the sum totalled 20 Euro. The defendant gave the barman the 50 Euro note and this went for a couple of minutes out of his sight and he came back and the barman told him that it was fake and handed him the note back. The note was crossed.

He denied that he tried to pay with the same notes twice. He said that he only knew that the note was fake when it was brought back with a red cross on it. He did not use the money before that evening (fol 64). The defendant said that the money could not be fake. He said that they had been to the bar at about 8.00pm and the incident happened round about 1.00am. He said that he had some money because the restaurant was away from the ATM and he got some money from the boat and he had got a 100 Euro note from the boat. It was the captain who had given him the cash and the 50 Euro note had come from the captain. He had asked for spending money because he did not have enough money on him. He could not say for sure that it was his note but then he added 'it was my note that had a cross on it'. He said that all the money he gets is from Euro Exchange and that is from the bank and the money received is good money, so it could not be the same note he had handed to the barman on that day.

The defendant also said that when he was questioned by the police, he had had a lot of drinks. The defendant said that he was innocent and that he had not done anything wrong. And he remained here because his boat had to leave so he remained in Malta.

Nicholas Scerri said that the defendant was his chief engineer. He said that he had made a request for money to their head office in Switzerland and they wire transfer money to their agents. Then the agents pick up the money from a financial institution and deliver to the yacht where they keep it in the safe. The witness said that he had been standing right next to him when the defendant tried to give the 50 Euro note for the drinks. The witness said

that he had given the defendant 100 Euro in two 50 Euro notes that evening and previously during the week he had given him 100 Euro notes and 50 Euro notes to buy the spare parts (fol 72). The witness said that the ones he had given the defendant were brand new but the barman took the note and disappeared and then came back with another note with a cross drawn on it. The Court then asked 'But are you sure that you had given the 50 note which he tried to pay the barman?' and the witness replied 'Yes' (fol 72). After a further question by the Court, the witness went on to say 'I do not know the number but I know that it was a nice crisp note because I was using the same.' And the witness said that he had seen the one which was given back to the defendant with the cross on it. Then the lawyer asked 'Would you say that it was different to the one you had given to him?' and the witness replied 'Yes I do'. They had been drinking there for quite some time. He knows the chief engineer as an honest person. The witness said that he was positive that the defendant had paid with the money that he had passed him on the bridge (fol 74).

The last person to take the witness stand was Mark Darmanin Kissaun who is Director OS in the Yachts Limited. He confirmed again that they receive funds in their bank accounts and they are notified by the bank. They use the services of financial companies to collect the funds. They note a cheque to Euro Exchange and Euro Exchange as a financial company brought the cash to the office. In this particular case he had requested 50 and 100 Euro notes. He exhibited a copy of the funds received by the company who sent the money to their HSBC bank. He also exhibited a document which is signed by the previous captain to withdraw the funds on the same date that Euro Exchange brought the same amount of money in 100 and 50 denominations.

### **Considers**

First of all the parties agreed that the note exhibited in Court was not a genuine one. (See note in the records of the case at page 59).



The Court finds the versions given by the witnesses for the Prosecution, namely Mark Fenech, Dino Azzopardi, Mario Azzopardi and PS Oscar Baldacchino as reliable reports of what really took place on the 12<sup>th</sup> April, 2008.

The Court is fully convinced that the defendant tried to part with his €50 note **twice** while he was at Plush Bar and Club Paceville. The first time he pocketed the Euro Note which the barman returned to him without any protest or any allegation that his fifty Euro note had been substituted by another one and paid in Euro notes of a lower value.

The Court is now going to examine the submissions made by the defence.

**A. The defence submits that the defendant receives all his money from the company which employs him.**

The defence tried to establish that the defendant normally obtains his money from the company which employs him and that he had even received spending money from the captain. However, the Court did not find this evidence convincing. The defendant himself stated that the €50 Note could have been part of the cash flow that he used to buy parts for the boat. (See the Statement made by the defendant to the Police) The Court was not convinced that all the notes in the possession of the defendant came from company handouts. It could easily have come as change from other sources that the defendant had paid in order to obtain goods or for services rendered.

In particular it should be noted that Mr. Nicholas Scerri had testified that he had given the defendant 100 Euros in two 50 Euro notes to spend on that evening and previously during the week he had been given **100 Euro Notes** and 50 Euro notes to buy spare parts. The 100 Euro Notes are also used in Malta to effect payment and then the buyer or payer receives the change in the other forms of Euro Notes. So no one can rule out that the 50 Euro note could

have come from a different source than that indicated by witnesses for the defence.

**B. Allegations about possible substitution of the €50 Euro Note**

The defendant also said that he could have obtained his €50 note from an ATM but then he was informed that ATM's at present do not provide anyone with €50 notes.

So in the statement he shifted his ground of defence by stating that as the barman had moved to the other side of the bar and he had lost sight of the Note, and so he did not know if the barman had changed the note or not.

With all due respect, the bar staff did not give the impression of any wrongdoing on the witness stand. Nor did they raise any suspicions that they had exchanged a genuine €50 note for a false one. They only took precautions after the defendant had offered to pay the first time round by presenting a fake 50 Euro Note by informing the rest of the barmen about the false Euro Note and pointing out the person who had offered to pay with it. It is also inconceivable that the barmen could (i) first have substituted the 50 Euro Note; (ii) then refused it when it / or any other Euro Note was offered by the same person a second time.

**C. The defence submits that the €50 Note was a different one from those given by Mr.Scerri. ( A variation of B above)**

Mr.Nicholas Scerri stated that the €50 Euro Note was different from the one he had given the defendant.

This may have been quite true but it was impossible for anybody – including all the witnesses for the defence - to testify about all the kind of money that the defendant had in his possession. It may not have been one of the Euro notes that Mr.Scerri had given to the defendant and, as has already been stated, the defendant could have obtained fifty Euro notes from other sources. Moreover,

in any case, this witness never asserted that he had carried out a thorough search of the Notes in the possession of the defendant.

**D. The defence submits that the Prosecution had failed to prove that it was the same Note.**

The defence submitted that the Prosecution had not proved that it was the same 50 Euro note that had been offered the same time round. In the Court's view, this kind of evidence was unnecessary because all the Prosecution had to prove was that the defendant had paid by using a fake €50 note. They had at least two different barmen testifying about this matter.

**E. Another line of defence – the defendant was not aware that the Euro Note was a fake one.**

Even supposing that the defendant was unaware that the Euro note was a fake the first time he tendered it for payment, the second time he definitely knew that he was offering to pay with the false note.

Nor was it proved that he in such a state of intoxication as to establish a convincing line of defence on this ground.

**F. The Defence established its case on a balance of probability.**

The defence has manifestly not done so. Producing evidence of where the money normally flows from is no 'probable' evidence at all once it is granted that no witness was aware of or kept a constant tag on the defendant's purchases. Many salaried workers are paid through the commercial banks but this does not mean that these employees do not have any fake money in their pockets. Like the employees, the defendant went on making his purchases and paying for services rendered. Hence the Court can only dismiss this line of defence.

**Conclusion.**

**Sections 45 and 46 of Chapter 204 of the Laws of Malta read as follows.**

**'45.** (1) Whosoever forges any currency note or utters any forged currency note knowing the same to be forged shall be liable, on conviction, to imprisonment for a term of not less than two years and not exceeding nine years:

**Provided that where a forged currency note is uttered by a person who proves that at the time at which it came into his custody or possession he did not know the same to be forged, the punishment shall be reduced to a term of imprisonment of not less than two months and not exceeding three years.**

(2) Whosoever makes use of legal facilities or materials to manufacture any currency note in violation of the rights and conditions under which such facilities or materials are to be used shall be liable, on conviction, to imprisonment for a term of not less than two years and not exceeding ten years.

Possession of forged notes.

**46.** Whosoever without lawful authority or lawful or reasonable excuse (the proof whereof shall lie on the person accused) purchases or receives from any person, or has in his custody or possession, a forged currency note knowing the same to

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be forged shall be liable, on conviction, to imprisonment for a term of not less than thirteen months and not exceeding five years.'

The Court, after having examined sections 45 and 46 of Chapter 204 of the Laws of Malta and section 17(h) of Chapter 9 of the Laws of Malta finds the defendant guilty of both charges so however that the proviso of section 45 should apply. Moreover, as the Prosecution failed to produce any evidence that the defendant had himself forged the €50 note then 17(h) should apply. As the defendant has a clean criminal record the Court, instead of condemning the defendant is discharging the defendant on condition that he does not commit another crime within two years from today. The Court explained section 22 of Chapter 446 of the Laws of Malta to the defendant.

The Court orders that the €50 Note be passed to the Central Bank of Malta for its examination.

**< Sentenza Finali >**

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