



**COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE**

**MAGISTRATE DR.
JACQUELINE PADOVANI**

Sitting of the 23rd September, 2008

Number 665/2008

POLICE
INSPECTOR RAYMOND AQUILINA
VS
MILAN RUZICIC

The Court,

Having seen the charges brought against the accused Milan Ruzicic, 53 years old, son of Zivan and Milena nee' Zivanovic, born at Loznica, Serbia on the 27th July 2008, residing at 61, "St. Joseph" Flat 1, St. Patrick Street, Birzebbugia and holder of Maltese ID card number 23525A;

And is accused of:

In Birzebbugia, in the month of June 2008 and in previous months by means of several acts committed by him, even if at different times, which acts constitute violations of the

same provisions of the law and are made with one resolution:

1. by lewd acts, corrupted Omissis A, a omissis year old minor, which criminal act was done by the fraudulent means which he used.
2. also, in the same place, time and circumstances, by means other than those mentioned in Article 203 (1), excited, helped or facilitated the corruption of the same Omissis A, a person under age.
3. and also, that in the same place, time and circumstances, took part in sexual activities with Omissis A, a person under age.

The Court is being humbly requested to order the necessary protection which is deemed fit in terms of Article 412 (C) of the Criminal Code during the course of this case and also in the circumstance that the accused is found guilty.

In the case were the accused is found guilty, the Court is being humbly requested to provide for the security of Omissis A and her family in terms of Article 383 et sequitor of the Criminal Code.

Having heard the evidence tendered on oath;

Having seen the record of the proceedings;

Having heard the plea of admission to the third charge brought against the accused by the same accused.

Having heard the confirmation of the same plea registered by the accused, after the Court accorded the accused a reasonable time to reconsider his plea.

Having heard the oral submissions of the parties;

Considers:-

From the evidence of Inspector Raymond Aquilina at page 84 et seq. it transpires that he had given instruction to

WPS 24 Josephine Gauci to assist social workers from Appogg to investigate allegations of physical and sexual abuse of a minor who was allegedly being induced into prostitution that was taken place at omissis. Inspector Aquilina stated on oath that WPS 24 and the social workers found the minor Omissis A aged omissis who informed them that she was indeed being beaten up by Anna Maria Jimenez and induced into prostitution. In the course of the investigation it resulted that Omissis A started to live with Anna Maria Jimenez when Omissis A was omissis years old following arguments between the minor Omissis A and her mother Omissis B, whereupon it was agreed that Omissis A would live with Anna Maria Jimenez at the above mentioned address.

Omissis A disclosed that she was having sexual activities with clients in Jimenez's residence and elsewhere with men for payment. Indeed, sexual services were performed in the clients' car or at a given address. The minor disclosed that she was told to request a fifty euro payment for such sexual services when these were conducted in the residence of Jimenez, or twenty-five euro payment where such services were conducted in a car. The minor Omissis A also disclosed that there was a paying client with the name of Milan who was a regular client with whom she conducted sexual services in his own flat. The minor informed the Police that she would go to Milan's residence on foot or was accompanied by Jimenez herself in her car, that is a white Peugeot 206.

Inspector Aquilina stated that the minor accompanied the Police and identified the residence of the client by the name of Milan where in fact it transpired that the apartment was rented out to the accused Milan Ruzicic, identity card 3119A. Inspector Aquilina stated that following gynecological examinations, it resulted that Omissis A was suffering from a sexually transmitted disease – that is herpes.

The accused was arrested and interrogated with the assistance of a Serb-interpreter and released a statement marked and exhibited as Dok.RA at page 22 et seq. in

which he **denied all allegations** of sexual activities with the mentioned Omissis A and admitted to having sexual activities with **Anna Maria Jimenez but not for payment**. He also stated that he had in fact met the minor at the Bocci Club.

The minor, Omissis A, in fact collaborated the evidence of Inspector Raymond Aquilina and said that she went to live with Anna Maria Jimenez at the age of omissis and this was with the consent of her mother Omissis B. Omissis A stated that she had met Anna Maria Jimenez during the summer vacation where the entire family would reside in a caravan. Omissis A, in her testimony, during her video conference, as well as her mother Omissis B, stated categorically that Anna Maria Jimenez and Omissis B has a lesbian relationship for a considerable time and that, this was how Omissis A was initially acquainted with Jimenez. When the relationship with Jimenez and Omissis B ended, **Omissis B was comfortable with the idea of allowing her daughter to live with Jimenez**. Omissis A, in her evidence before the Court, stated categorically that when she went to live with Jimenez and on Jimenez's instigation and/or facilitation she started to prostitute herself with male clients for payment at Jimenez's flat. She stated categorically that in the beginning she saw clients for payment and kept the money for herself and that it was after sometime that Jimenez allegedly forced her to continue the prostitution and took all the money for herself. **Omissis A stated that Milan Ruzicic was not her first client, that he became a client after a month in which she was initiated to prostitution where she saw clients everyday, where she saw at least four clients a day (vide page 43)**. Omissis A stated that she gave sexual services to the accused **Milan Ruzicic regularly on a twice weekly basis in his flat**, that he started to pay **the normal fifty euro charge** in the beginning but later reduced this amount stating that he could not afford the same and **started to pay fifteen pounds**.

At page 46 et seq. Omissis A stated that this was not the first criminal proceedings for corruption of minors that she

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was a victim/witness and recounted the experience she had with a member of her family who had exposed his genitals in her presence.

Omissis A also confirmed that the accused knew that she was omissis when he had sexual activities with her for payment.

Deliberates;

The case as presented before the Court illustrates clearly the dire moral background in which Omissis A was brought up.

Indeed, this youth was exposed at a very young age to a mode of sexual behavior by her guardians, which had an irrevocable impact on the child.

Omissis B - who admitted in open Court to have traded in prostitution herself - felt no compunction in allowing her minor daughter to live with a woman who had accompanied her in the trade of prostitution, and with whom she had a lesbian relationship of a considerable length of time. This same child had a few months before she started to live with Jimenez had undergone a traumatic and abusive experience together with her sister, at the hands of a close member of the family. More over, Omissis A stated categorically that she had proffered sexual services for payment to several men (average four or five per day) for at least a month before the accused, Milan Ruzicic, became a regular client of hers.

Deliberates;

Article 203 of the Criminal Code states:

“whosoever, by lewd acts, defiles a minor of either sex, shall on conviction , be liable to imprisonment for a term not exceeding three years with or without solitary confinement.”

There is no doubt that full sexual intercourse for payment, tantamount to “Lewd” acts in terms of the Criminal Code. The Court therefore needs to address the question of the defilement of Omissis A by the accused, in the light of all the evidence produced in this case.

Omissis A stated categorically that prior to her sojourn with Jimenez, she was a virgin having had no sexual intercourse with men. When she started to live with Jimenez, she began to see clients. Approximately a month later Ruzicic became a regular client.

In *Repubblika Ta’ Malta versus Carmelo Spiteri*, the Criminal Court of Appeal decided on the 20th March 1989 (Per Judge Hugh Harding) upheld the following:

“Fost l-atti ta’ libidini, għall-finijiet tar-reat ta’ korruzzjoni ta’ minorenni, hemm kompriz il-kongungiment karnali. L-artikolu 203 tal-Kodici Kriminali jirrikjedi fost affarijiet ohra li l-att ta’ libidini jkun effettivament ikkorrompa lill-minuri. Huwa minnu li jistghu jingħalqu kazijiet fejn is-suggett passiv tar-reat, minhabba hajja dedikata għall-laxxivja u għall-pjaciri sesswali ikun fi stat ta’ travjament morali tant komplet li difficilment wiehed jista’ jimmagina kif jista’ jigi ulterjorment korrott; izda hu cert ukoll li esperjenza sesswali precedenti mhux necessarjament teskludi l-possibilita’ li jkun hemm korruzzjoni.”

Moreover in the case *Il-Pulizija versus Lorenzo Baldacchino*, decided on the 30th March 1963, the Criminal Court of Appeal (Per Judge William Harding) stated:

“Il-persuna korrotta ghandha d-dritt illi ma tigix ulterjorment korrotta, u hadd ma ghandu d-dritt li impunement jispingiha aktar fit-triq tal-korruzzjoni, jew jimpedilha l-possibilita’ tar-rigenerazzjoni.”

Indeed in the case *Il-Pulizija versus Carmelo Grech* decided on the 18 of June 1960 by the Criminal Court of Appeal (Per Judge William Harding), that Court reiterated that:

“Il-Qrati ta’ Malta qatt ma abbraccjaw it-teorija, propunjata minn xi sktritturi, illi r-reat ta’ korruzzjoni ma jezistix meta l-minuri jkun ga totalment korrott. Huma dejjem irritenew illi anka l-minuri korrott ghandu d-dritt li ma jigix ulterjorment korrott, u x’inhu l-istadju tal-korruzzjoni tieghu.”

This Court deliberated and evaluated in detail the facts brought before it, including the plea of admission to the third charge brought against the accused, the fact that the minor Omissis A, omissis years of age, was a virgin prior to her stay with Jimenez, and had been initiated into prostitution for a month prior to the sexual services proffered to the accused, the length of time during which sexual services were proffered to the accused. It is the Court’s considered opinion, that though this minor was certainly corrupted by her previous one month practice of prostitution, the continued sexual services proffered to the accused for payment effectively contributed to the further corruption of the said minor, special regard being had to the fact that the corruption happened over a course of one and a half years.

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Therefore the Court finds the accused guilty as charged and after having seen Article 18, 203, 203A, 204C of Chapter 9 of the Laws of Malta and condemns him to a six month term of imprisonment, from which term of imprisonment shall be deducted the time that the accused spent in preventive custody. This punishment has been accorded after the Court took into consideration, the early plea of admission of the accused, the fact that he has a clean criminal conduct and the special circumstances of the case.

< Final Judgement >

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