



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

**MAGISTRATE DR.
ANTONIO MICALLEF TRIGONA**

Sitting of the 27th November, 2008

Number 790/2008

This 27th November 2008

The Police
(Inspector Graziella Muscat)

vs

Lars Wrede

The Court,

Having seen the charges brought against the accused son of Uwe and Elfrida nee Hekerborn born Germany and residing San Gwann, for having on the 7th of August 2008, at the Law Courts Bldgs. in Valletta, Malta, made a false oath before a judge.

Having heard witnesses;

Having seen all records and documents;

Considers:

The crime for which the accused is charged relates to false swearing which is dealt with in Article 108 of the Criminal Code. It encompasses any person who makes a false oath before a judge, magistrate or any other officer authorised by law to administer oaths.

That the facts which have given rise to the charges are the following: on the 7th August of the current year accused gave evidence in his own proceedings before the Court of Criminal Appeal, which proceedings, as perceived from the records of this present case, referred to the revocation of bail on the instance of the attorney general who was alleging that the accused had breached one of his bail conditions as he had spoken to what appears to be a key witness for the prosecution, notably the girl he used to live with. It transpires or it seems to transpire in this context that the accused is facing criminal charges for living of immoral earnings in the course of which proceedings he was granted bail.

That following his sworn evidence before the Court of Criminal Appeal, in which it appears from the transcript exhibited and found in the present records, that the accused denied having approached and spoken to the girl in question, accused, on the 10th September of the current year, voluntarily made a statement to the prosecuting officer, that is after his sworn testimony before the Court of Criminal Appeal, in which he stated that he had in actual fact spoken to the girl justifying that he had denied this allegation before the Court of Criminal Appeal as he was so advised by his lawyer.

That counsel for the accused has requested, as shown registered in a minute in these proceedings dated the 4th November 2008, that the transcript of accused's deposition before the Court of Criminal Appeal and exhibited in these proceedings is not admissible as evidence. Counsel, consequently, asked that it be struck-off the records of these proceedings. This Court, however, does not agree and is hereby rejecting the request notably on the basis of Article 627(e) and 636 of the Code of Organisation and Civil Procedure, rendered applicable to criminal proceedings by Article 520 of the Criminal Code.

That in the matter concerning these proceedings what matters to the Court relates solely to the charge contested to the accused, that is, if by his admission in his statement given to the prosecuting officer stating that he had spoken to the girl in breach of one of the conditions imposed in his bail bond as against what he had testified before the Court of Criminal Appeal, he has rendered himself open to be prosecuted for false swearing.

That on the basis of the constitutive elements underlying this offence, that is: i. the false statement; ii. lawfully made on oath; iii. before a judge, magistrate etc....the crime subsists and the accused is consequently answerable under Article 108.

Considers:

That in this Court's opinion it is sub-paragraph (2) of Article 108 that is applicable.

Therefore, it declares the accused guilty of the charge brought against him and after having seen Article 108 of the Criminal Code, condemns him to three months imprisonment which are being suspended for two years from today provided that the accused does not commit an offence which carries imprisonment during this period.

< Final Judgement >

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