



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

**MAGISTRATE DR.  
LAURENCE QUINTANO**

Sitting of the 17 th December, 2008

Number. 39/2006

**The Executive Police**

**(Inspector Norbert Ciappara)**

**Versus**

**Steve John Caddick**

The Court

Having seen the charge laid against Steve John Caddick 38 years old born in the United Kingdom (England) on the 31<sup>st</sup> March 1966 son of Victor and Irene nee Green at present residing at Corradino Correctional Facility Kordin and holder of British Passport Number 34256121

Accused for having in these Islands, during the nine months before the 8<sup>th</sup> March 2004, been in possession of the resin obtained from the plant cannabis or any other

portion of which such resin formed the base in terms of section 8(a) of Chapter 101 of the Laws of Malta.

Having seen the order of the Attorney General dated 2<sup>nd</sup> January 2006 and the Conviction Sheet of the accused.

Having heard the witnesses on oath.

Considers

On the 8<sup>th</sup> March 2004 the prison authorities carried out a search on the prisoner's clothes which were hanging in the common yard. A small piece was found and the suspicion was that this was cannabis resin. The Duty Magistrate held an inquiry.

In the statement the accused denied that the resin was his. (See page 8). He admitted that since he had been confined in prison he had used cannabis only once and this was about eight or nine months before. [ The time must have been around May or June of 2003].

He also stated that the pants were hanging in the common area. (Fol.9) and that about 50 prisoners could accede this area.

John Tabone testified that a search had been carried out on the accused but nothing was actually found. The accused had admitted that the clothes on the line were his. (Fol 12). The piece of resin was found in the underpants of the accused. The witness confirmed that the underpants were hanging in a common area. The accused used to work in the gymnasium and some inmates wanted to take his 'job'.

Mr.Mario Mifsud, appointed as expert during the inquiry, established that the substance weighed 2.732 grammes and contained THC.

Inspector Abraham Zammit testified the defendant had forfeited 56 days remission because he had been found

guilty that he had abused of the drug cannabis on the 2<sup>nd</sup> August 2003. Document AZ refers to this instance.

### Considers

First of all, the evidence shows that the common yard could be accessed by about persons and that the defendant's clothes were actually hanging in this area. Now while it is true that the resin was found in the defendant's clothes, the Court cannot exclude the possibility that some one else may have put it there to embarrass the defendant. This was an area which was easily accessible and not, say, the defendant's cell. In the circumstances, the Court has a lurking doubt and hence it is discharging the defendant as to possession of cannabis resin on the 8<sup>th</sup> March 2004.

However, the charge refers to the nine months before as well and this goes back to May or June 2003.

The defendant was found guilty of possession of cannabis on the 2<sup>nd</sup> August 2003. From the testimony of Mr.Abraham Zammit, the defendant had lost 56 days' remission. No records were provided which show that the defendant had been found guilty of the possession of cannabis on any other occasion. It is reasonable to assume that, in his statement, the defendant had been referring to the same date about which Mr.Zammit testified.

Once the defendant had lost 56 remission, he cannot be punished again for the same crime in accordance with a leading decision of the Constitutional Court. So the Court is acquitting the defendant of any crime of possession of cannabis resin which may have been committed by the defendant in the nine months before the 8<sup>th</sup> March 2004.

### Conclusion

The Court, having seen section 8(a), 22(1)(a) and 22(2)(b)(ii) of Chapter 101 of the Laws of Malta acquits the defendant of the charge laid against him.

**< Final Judgement >**

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