



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

**MAGISTRATE DR.
EDWINA GRIMA**

Sitting of the 14 th January, 2009

Number. 1318/2007

**The Police
(Inspector Angelo Gafa)**

VS

Brigita Copja, having 32 years of age, daughter of Ftamir and Shpresai nee' Shuteriqi, born in Elbasan, Albania on the 20 ta' December 1974 and holder of Maltese identity card number 14471(A) and Albanian passport number Z0566636.

The Court,

Having seen the charges brought against the accused, in that she having in these Islands, at St. Julians, on the 17th October 2007 and preceding days, by means of several

acts, even if at different times, that constituted violations of the same provision of the law, and committed in pursuance of the same design, by means of unlawful practice, or by the use of any fictitious name, or the assumption of any false designation, or by means of any other deceit, device or pretence calculated to lead to the belief in the existence of any fictitious enterprise or of any imaginary power, influence or credit, or to create the expectation or apprehension of any chimerical event, made gain in excess of five thousand Maltese liri (Lm5000) to the prejudice of Nathalie Fenech and Adrienne Forrest, proprietors of outlets Nathalie and Porto in Portomaso Shopping Complex, St. Julians respectively and to the prejudice of Hilton Malta and Marylyn Spiteri Staines.

Having seen the documents exhibited and all the acts of the proceedings

Having heard the evidence.

Having seen the note of the Attorney General of the 27 March 2008, wherein the accused was sent for trial by this Court under the provisions of Articles 18, 308, 309 310(1)(a) of the Criminal Code and also Articles 17, 23, 31 and 533 of the Criminal Code.

Having heard the accused declare that she has no objection to the case being tried summarily by this Court.

Considers,

From the evidence brought forward by the prosecution, it results that accused Brigita Copja had on the date or dates indicated in the charge, issued various cheques from her own personal current account with HSBC Bank, which cheques were subsequently dishonoured by the bank. Accused in actual fact used these cheques in order to effect various payments, mainly for items of clothing she had purchased from a certain Nathalie Fenech, a handbag from an outlet by the name of Porto belonging to Forrests Fashions Limited and also to effect payment for

rent owing to Marilyn Spiteri Staines and for accommodation at the Hilton Malta.

Furthermore the prosecution has also brought forward evidence showing that the accused's bank account had been overdrawn already for several months and also that she had received notification from the bank on several occasions that the cheques issued by her were not being honoured due to insufficient funds in her bank account (vide Documents BC4, BC5, BC6 and testimony of Audrey Ghigo on behalf of HSBC bank at folio 104 et.seq of court records).

From this it clearly results that the accused was aware of the fact that she did not have sufficient funds in her bank account in order to fully satisfy payments which were being effected by her by means of cheques issued on the said account. The Court does not believe what accused declares in her testimony that she has millions of liri in other bank accounts which she thought were transferring funds into her Maltese HSBC account. It transpires from the acts of the proceedings that accused was facing financial difficulties and was also suffering temporarily from psychological problems to the extent that her job as a nurse in the ITU department at St'Luke's Hospital was terminated abruptly due to behavioural problems. Also the statement released by the accused to the investigating officers, upon being arrested, contains assertions which the accused was trying to conjure up in order to exculpate herself from any accusations being brought against her, assertions which are completely illogical and do not make sense, like being a member of CIA or Interpol, having diplomatic immunity, owning HSBC worldwide amongst others.

The accused is being charged with the crime of fraud as contemplated in articles 308 and 309 of the Criminal Code. Article 308 of the Criminal Code states:

"Whosoever by means of any unlawful practice, or by the use of any fictitious name, or the assumption of any false designation, or by means of any other deceit, device or

pretence calculated to lead to the belief in the existence of any fictitious enterprise or of any imaginary power, influence or credit, or to create the expectation or apprehension of any chimerical event, shall make any gain to the prejudice of another person, shall, on conviction be liable ...”

It results from the acts of the case that the accused tried to deceive her victims into believing that she had sufficient funds in order to pay for the purchases made by her. She issued various cheques to effect such payments knowing fully well that she could not pay for the items purchased and for the accommodation both at the apartment where she used to reside as well as at the Hilton hotel. In this manner the accused was making a profit for herself at the expense of her victims who suffered a patrimonial loss as a result of accused's actions.

The Court of Criminal Appeal in a judgment delivered on the 22 October 1994 I-Pulizija vs Patrick Spiteri, quoting the author Francesco Antolisei stated:

“L’agente ... deve volere non solo la sua azione, ma anche l’inganno della vittima, come conseguenza dell’azione stessa, la disposizione patrimoniale, come conseguenza dell’inganno e, infine, la realizzazione di quel profitto che costituisce l’ultima fase del processo esecutivo del delitto. Naturalmente occorre che la volonta sia accompagnata dalla consapevolezza del carattere frodatorio del mezzo usato, dell’ingiustizia del profitto avuto in mira e del danno che ne deriva all’ingannato.”

Consequently the Court considers that the prosecution has managed to prove that the accused is guilty of the charge brought against her as contemplated in article 308 of the Criminal Code and this beyond reasonable doubt. Since Article 309 is an alternative charge to article 308 since this contemplates any other kind of fraud that does not fall within the parameters of article 308, the Court cannot find accused guilty also under this section of the law.

Finally, it has been established from the documents exhibited by the prosecution that the prejudice caused to the victims of this crime exceed the amount indicated in Article 310(1)(a) being the amount of Lm1000.

When considering the punishment to be inflicted on the accused the Court is taking into consideration, the clean criminal record of the accused, the fact that most items taken by the accused have today been returned to their owners, and finally the fact that the accused was suffering from temporary psychological problems when committing the said crime as admitted by herself in her testimony, in stating that she was suffering from a depression.

Consequently, after having seen articles 308, 310(1)(a), and 31 of the Criminal Code, finds the accused Brigita Copja guilty as charged and condemns her to a period of eighteen months imprisonment, which period of imprisonment is being suspended for a period of three years and this after having seen article 28A of the Criminal Code and in view of the above mentioned considerations.

The Court declares that it has explained to the accused in plain language the consequences of this judgment and this in terms of Section 28B of the Criminal Code.

< Final Judgement >

-----END-----