



**CRIMINAL COURT**

**THE HON. MR. JUSTICE  
GIANNINO CARUANA DEMAJO**

Sitting of the 16 th March, 2009

Number 11/2008

**The Republic of Malta**

*Versus*

**Hasan Ben Salah, 33 years old, son of Abdeslam and Mahjouba, born in Aghbal, Morocco on the 10<sup>th</sup> January 1975 and currently residing at the Corradino Correctional facility, but formerly of Hoofdweg 274-hs, 1057 DJ, Amsterdam, the Netherlands, holder of Passport NK4106626 issued in the Netherlands on the 3<sup>rd</sup> February 2006, an driving licence number 3318122518 issued in the Netherlands**

Hasan Ben Salah stands accused under the first count of bill of indictment number 11 of 2008:

of having, between the fifth (5<sup>th</sup>) day of June of the year nineteen ninety five (1995) and the fourth (4<sup>th</sup>) day of June of the year two thousand and two (2002) as well as on the twenty fifth day of July of the year two thousand and five (2005) and during the weeks and months prior to this latter date, with criminal intent, and with several acts committed at different times, however violating the same provisions of the Law, and in pursuance of the same design, with another one or more persons in Malta, or outside Malta, conspired for the purpose of selling or dealing in a drug (cocaine) in the Maltese Islands against the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) or by promoting, constituting, organizing or financing such conspiracy;

and under the second count of the same bill of indictment: of having, on the fourth (4<sup>th</sup>) day of June of the year two thousand and two (2002) as well as during the weeks and months prior to this latter date, with criminal intent, with another one or more persons in Malta, or outside Malta, conspired for the purpose of selling or dealing in a drug (cannabis) in the Maltese Islands against the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) or by promoting, constituting, organizing or financing such conspiracy;

The Attorney General then demanded, in respect of the charges under the first count:

that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to a fine of not less than two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) but not exceeding one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (€116,468.67) and the forfeiture in favour of the Government of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in articles 9, 10(1), 12, 22(l)(a) and (f), (IA), (IB), (2)(a)(i), (3A)(a), (b), (c) and (d), (7), 22(1A) and 26 of the Dangerous Drugs Ordinance and articles 23 and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilt of the accused;

and, in respect of those under the second count: that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to a fine of not less than two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) but not exceeding one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (€116,468.67), and the forfeiture in favour of the Government of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in articles 2, 8, 9, 10(1), 12, 22(l)(a) and (f), (IA), (IB), (2)(a)(i), (3A)(a), (b), (c) and (d), (7), 22(1A) and 26 of the Dangerous Drugs Ordinance and articles 23 and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilty of the accused.

By virtue of a joint application filed on the 6<sup>th</sup> March 2009 the Attorney General and the accused advised the court that they had reached an agreement in terms of article 453A(1) of the Criminal Code and jointly requested that, in the event that the accused pleads guilty to all the charges preferred against him in the Bill of Indictment, the punishment to be awarded by this court should consist of a term of imprisonment of twenty (20) years and the imposition of a fine of fifty thousand euro (€50,000), together with the other sanctions and consequences that are mandatorily prescribed by law upon conviction in terms of the provisions of the Dangerous Drugs Ordinance, including the confiscation of any monies and other movable and immovable property of the accused. In the sitting held today Monday the 16<sup>th</sup> of March 2009, the accused, after being asked, in terms of article 450 of the Criminal Code, whether he is guilty of the offences charged in the indictment, stated that he is guilty of those offences. The court then, as required under article 453 of the Criminal Code, solemnly warned him of the legal consequences of such statement, explained the consequences of the request made by him jointly with the Attorney General, and allowed him a short time to retract his statement. The accused however persisted in his statement, which was then recorded.

The court therefore declares Hasan Ben Salah guilty of the charges preferred against him in the bill of indictment, namely of having, between the fifth (5<sup>th</sup>) day of June of the year nineteen ninety five (1995) and the fourth (4<sup>th</sup>) day of June of the year two thousand and two (2002) as well as on the twenty fifth day of July of the year two thousand and five (2005) and during the weeks and months prior to this latter date, with criminal intent, and with several acts committed at different times, however violating the same provisions of the Law, and in pursuance of the same design, with another one or more persons in Malta, or outside Malta, conspired for the purpose of selling or dealing in a drug (cocaine) in the Maltese Islands against the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) or by promoting, constituting, organizing or financing such conspiracy, and of having, on the fourth (4<sup>th</sup>) day of June of the year two thousand and two (2002) as well as during the weeks and months prior to this latter date, with criminal intent, with another one or more persons in Malta, or outside Malta, conspired for the purpose of selling or dealing in a drug (cannabis) in the Maltese Islands against the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) or by promoting, constituting, organizing or financing such conspiracy.

Having seen articles 9, 10(1), 12, 22(l)(a) and (f), (IA), (IB), (2)(a)(i), (3A)(a), (b), (c) and (d), (7), 22(1A) and 26 of the Dangerous Drugs Ordinance and articles 23 and 533 of the Criminal Code, and having reviewed the sanction requested by the parties in terms of article 453A of the Criminal Code, the court is satisfied that the sanction requested is one which it would have been lawful for it to impose upon conviction for the offence to which the accused has pleaded guilty and finds no cause to order the trial to be proceeded with for a reason referred to in article 453(2) of the Criminal Code, or for any other reason to reject the request.

The court therefore, as requested by the parties jointly, sentences Hasan Ben Salah to a term of imprisonment of twenty (20) years and to a fine of fifty thousand euro (€50,000); it further orders the confiscation in favour of the Government of Malta of any monies and other

movable and immovable property of the person sentenced, even if the immovable property has since the person sentenced was charged passed into the hands of third parties, and even if the said monies, movable property or immovable property are situated in any place outside Malta.

In terms of article 22 of the Criminal Code, any time prior to today during which the person sentenced was in prison for the offences for which he has today been convicted and sentenced, not being time in prison in execution of a sentence, shall count as part of the term of imprisonment under this sentence.

In terms of article 533 of the Criminal Code the court further sentences Hasan Ben Salah to the payment to the registrar of the costs incurred in connection with the employment in the proceedings of any expert or referee.

**< Final Judgement >**

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