



COURT OF CRIMINAL APPEAL

**THE HON. MR. JUSTICE
JOSEPH GALEA DEBONO**

Sitting of the 7 th January, 2010

Criminal Appeal Number. 414/2009

The Police

Vs

Helen Buttigieg

The Court,

Having seen the charge brought against the appellant Helen Buttigieg before the Court of Magistrates (Malta) as a Court of Criminal Judicature with having from the 17th July, 2009 till 2nd August 2009, on these islands, by means of several acts committed by the offender, even if at different times, which constitute violations of the same provision of the Law and were committed in pursuance of the same design, when ordered by a Court or bound by contract to allow access to Carmel Buttigieg to the children in her custody, refused without just cause to give such access.

Having seen the judgement delivered by the Court of Magistrates (Malta) as a Court of Criminal Judicature on the 2nd November, 2009, by which, after that Court had seen articles 338(II), and 18 of Chapter 9 of the Laws of Malta, found the appellant guilty and discharged her from any punishment on condition that she does not commit another offence within the period of 1 month in accordance with the provisions of Article 22 of Chapter 446 of the Laws of Malta.

The Court explained in clear words the terms of the judgement to the accused.

Having seen the application of appeal filed by appellant (in the Maltese Language) on the 10th November, 2009, wherein she requested this Court to reverse and annul the appealed sentence by therefore not finding the appellant guilty of the charge preferred against her and acquitting her from the said charges and from the punishment inflicted.

Having seen the records of the case.

Having seen the Prosecution's preliminary plea of the nullity of the application of appeal as it was filed in the Maltese Language when the proceedings were being conducted in the English Language.

Having heard submissions on this plea in the course of today's hearing;

Now duly considers.

That it results clearly from all the records of the proceedings prior to the filing of the application of appeal that the proceedings were being conducted in the English Language and this for the benefit of appellant. In fact in the course of the only sitting before the Court of first instance on the 2nd. November, 2009, it was expressly minuted that the accused could not understand the Maltese Language and only spoke and understood the English Language. That Court accordingly ordered that

Informal Copy of Judgement

the proceedings be conducted in the English Language
(Page 3 of the records).

That, notwithstanding such order, for some inexplicable
reason defence counsel though fit to file this appeal
application in the Maltese Language.

That in this Court's view this renders the said application
of appeal null and void and inadmissible at Law

The Court is accordingly declaring the application of
appeal null and void and is therefore abstaining from
taking any further cognizance of the case.

< Final Judgement >

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