



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

**MAGISTRATE DR.
JACQUELINE PADOVANI**

Sitting of the 29th October, 2010

Number 208/2006

**POLICE
INSPECTOR PAUL BOND
VS
CHRISTINE MARIA SPASOJEVICH**

The Court,

Having seen the charges brought against the accused Christine Maria Spasojevich, 25 years, daughter of Victor Valentino Chetcuti and Karen Ethel nee' Little, born in Own Sound (Ontario Canada), date of birth 10/03/80, residing at Flat 6, Anici Court, Triq il-Kavetta, San Pawl il-Bahar, holder of ID bearing the number 205704L.

And is charged on having on this Island, on the 20th April 2005, at around 1200hrs, in Triq il-Dawret il-Qawra, St. Paul's Bay:

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- a) Hindered, obstructed, molested or interfered with, or attempted to hinder, obstruct, molest, or interfere with, any officer, employee or agent of the Authority, or any Police Officer, in the execution of his duties under the law, or failed to comply with any reasonable requirement demanded of her by any such officer, employee, agent or Police Officer as aforesaid or otherwise to assist him in the carrying out of the said duties, or knowingly furnished to assist him in the carrying out of the said duties, or knowingly furnished such officer or employee or agent or Police Officer with false information required for the purpose aforesaid in breach of Section 43 (1)(d) of Chapter 409 of the Laws of Malta;
- b) Also accused that moreover acted as a seller or carried out duties which are normally carried out by an OPC representative when she was not in possession of a valid licence issued by the Authority in breach of Section 10 (1) and 4 (1) a of Legal Notice 299 of 2004.

Having heard the evidence tendered on oath;

Having seen the consent of the Attorney General (page 22) and that of the accused (page 27) for the case to be heard with summary proceedings;

Having seen the record of the proceedings;

Having heard the oral submissions of the parties;

Deliberates:

From the evidence tendered by Valhmar Micallef, it transpired that on the date cited in the citation, the witness, together with Malcolm Zerafa, on a routing inspection of time-share OPCs (Outside Promotional Contacts) found the accused approaching two tourists, opposite the Qawra Palace Hotel and noted that she was

not wearing her licence. Micallef and Zerafa joined the group of tourists who were about to be shown around the time-share unit by the accused. At a point in time, they stopped the accused and asked her about her badge-licence and she told them to speak to her boss at the Coastline Hotel. Micallef insisted that he needed her particulars. Micallef stated that he also turned onto the couple and asked them what they were doing there and was told that they had won a bottle of wine at the airport and did not know that this promotion led to a time-share promotion. At that point in time the accused got angry and started shouting, swearing and used foul language at them, she got into a car and drove off.

In cross examination, Micallef admitted that the accused gave him her name but then told him to go and speak to her boss. **At page 13, Micallef stated that he did not consider that the accused hindered him in his duties but he felt himself molested by her verbal abuse.**

Inspector Josric Mifsud (page 21) exhibited the consent of the Attorney General.

P.L. Louise Tufigno (page 23) exhibited the application and the licence of the accused, which was collected on the 26th of July 2005 (page 27).

Valmhor Micallef exhibited his report Dok.VM (at page 15 and 16).

The accused gave a detailed account of what happened with the MTA Inspectors, that she was working on the 20th of April 2005 at Qawra Seafront Hotel, halfway through a sales presentation when two (2) men approached her. She asked them what she could do for them and they told her to carry on her presentation. They asked her about her badge and she told them that it was ready and that she was waiting to pick it up and that, if they had any problems, she could accompany them to the hotel where her boss was ready to explain everything. She said this three (3) times. She said that Mr. Micallef talked to the couple she was talking to and then turned on to her and

accused her of speaking to these people under false pretences. The accused stated that she took exception to this and that the couple she was talking with just left as did the MTA Inspectors. She denies shouting or making a big scene. She declared that she did not, in any way, touch any of the Inspectors. She also stated that she was told by her boss that her papers were in order and that her card just needed collection.

Considers:

The accused is being charged under Article 43 of Chapter 409 of the Laws of Malta which provides:

*“43. (1) Any person who -
...ommissis*

(d) hinders, obstructs, molests or interferes with, or attempts to hinder, obstruct, molest, or interfere with, any officer, employee or agent of the Authority, or any police officer, in the execution of his duties under the law, or fails to comply with any reasonable requirement demanded of him by any such officer, employee, agent or police officer as aforesaid or otherwise to assist him in the carrying out of the said duties, or knowingly furnishes such officer or employee or agent or police officer with false information required for the purpose aforesaid; or

...ommissis,

shall be guilty of an offence against this Act and shall be liable on conviction to a fine (multa) of not less than one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) and not more than twenty-three thousand and two hundred and ninety-three euro and seventy-three cents (23,293.73), and in the case of an offence under paragraph (b) of this subarticle, or in respect of an offence under paragraph (c) of this subarticle, if the offender persists in the offence for more than three months, also to imprisonment for a term of not less than three months and not more than three years.”

It is evident from the testimony of Valhmoor Micallef that the accused did not, in any way, obstruct or hinder the execution of his duties but that he felt molested by her verbal abuse.

Now the word molested means:

“Ill-treated, physically abused, battered, injured and harmed.”

Both Valhmoor Micallef and the accused state that there was an absence of any physical assault and Micallef only objected to the accused’s use of foul language in his regard. Therefore the charge under Article 43 of Chapter 409 of the Laws of Malta does not subsist.

The accused is also charged under Legal Notice 299 of 2004 in that she did not possess a valid licence, issued by the Malta Tourist Authority, when she was carrying out her duty at an OPC representative.

There is no doubt in this Court’s mind that this charge subsists and has been proven according to Law, in that, although the accused’s employer assured the accused that all the paperwork was in order, this in fact, did not transpire. According to the acts in the record of the proceedings, it is evident that the accused’s employer had applied for her licence as far back as the 21st of March 2005 (vide Dok.MG and Dok.LT6) and that the licence was actually collected on the 26th of July 2005. **It was encumbent on the accused to verify that she actually possessed her licence before embarking on her work.**

Therefore the Court finds the accused **Christine Maria Spasojevich** not guilty of the first (1st) charge and acquits her of the same, guilty of the second (2nd) charge and after having seen and Section 4(1)(a) 10 (1) of Legal Notice 299 of 2004 under Chapter 409 of the Laws of Malta **condemns her to the payment of a fine of one hundred euro (€ 100).**

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< Final Judgement >

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