



CRIMINAL COURT

**THE HON. MR. JUSTICE
MICHAEL MALLIA**

Sitting of the 2 nd March, 2011

Number 44/2010

**The Republic of Malta
Vs
Victor Anokwu**

The Court,

Having seen the bill of indictment no. 44/2010 against the accused Victor Anokwu wherein he was charged with:

1)After the Attorney General premised in the First Count of the Bill of Indictment that on the nineteenth (19) April two thousand and nine (2009) and during the previous months, **Victor Anokwu** has, whilst in Malta, decided to start selling or dealing in a drug (cocaine) in the Maltese Islands. In pursuance of this design, **Victor Anokwu** contacted a Nigerian friend in Holland and they planned and agreed that this Nigerian friend would supply drugs, namely cocaine, to Victor Anokwu from outside Malta.

The method adopted between them was that **Victor Anokwu** would leave a missed call on the cellular phone of his Nigerian friend in Holland and the latter would, in turn, call him back and discuss the details of delivery of the mentioned drugs. **Victor Anokwu** received the mentioned drugs through third parties who themselves delivered them to Malta from outside the Maltese Islands to be trafficked illegally in Malta.

By committing the abovementioned acts with criminal intent, **Victor Anokwu** rendered himself guilty of, by several acts committed even though committed at different times but constituting a violation of the same provision of the law and committed in pursuance of the same design, illegally conspiring for the purposes of selling or dealing in a dangerous drug in these Islands in breach of the provisions of the Dangerous Drugs Ordinance, (Cap. 101 of the laws of Malta).

Wherefore, the Attorney General, in his aforesaid capacity accused **Victor Anokwu** of being guilty of, on the nineteenth (19) April two thousand and nine (2009) and during the previous months, by several acts committed even though committed at different times but constituting a violation of the same provision of the law and committed in pursuance of the same design, having with another one or more persons in Malta or outside Malta, conspired for the purposes of selling or dealing in a drug in these Islands against the provisions of the Dangerous Drugs Ordinance, (Cap. 101 of the Laws of Malta), and specifically of importing and dealing in any manner in the drug Cocaine, and having promoted, constituted, organised and financed such conspiracy.

Demanded that the accused be proceeded against according to law, and that **Victor Anokwu** be sentenced to the punishment of imprisonment for life and to a fine of not less than two thousand, three hundred and thirty Euros (€ 2,330) but not more than one hundred and sixteen thousand, five hundred Euros (€116,500), and the forfeiture in favour of the Government of Malta of the entire immovable and movable property in respect of

which the offence was committed and as described in the Bill of Indictment, as is stipulated and laid down in Articles 9, 10(1), 12, 14, 15A, 20, 22(1)(a)(f)(1A) (1B)(2)(a)(i)(3A)(a)(b)(c)(d) and 26 of the Dangerous Drugs Ordinance (Cap. 101 of the Laws of Malta) and in Articles 18, 23 and 533 of the Criminal Code (Cap. 9 of the Laws of Malta) or to any other punishment applicable according to law to the declaration of guilt of the accused.

2) After the Attorney General premised in the Second Count of the Bill of Indictment that in pursuance and execution of the association and conspiracy alleged under the First Count above and under the same circumstances as the First Count above, that is on the nineteenth (19) April two thousand and nine (2009) and during the previous months, **Victor Anokwu** received dangerous drugs in Malta on three (3) occasions. The last delivery was effected in April two thousand and nine (2009) and consisted of one hundred and twelve (112) capsules of cocaine and from these, seventy-seven (77) belonged to **Victor Anokwu** whilst the remaining thirty five (35) allegedly belonged to a certain George Moses.

The method of delivery consisted in that **Victor Anokwu** contacted his Nigerian friend in Holland and upon **Victor Anokwu's** instructions, the Nigerian friend sent a third party to Malta delivering the dangerous drugs and **Victor Anokwu** would finally receive them. **Victor Anokwu** then paid the Nigerian friend through various methods. On one occasion, he transferred the money to the Nigerian friend in Holland through Western Union whilst on another occasion a certain Mike Diala went to Holland and delivered the money to this Nigerian friend. In regard to the last delivery, **Victor Anokwu** gave the third party the sum of three thousand three hundred and fifty Euros (€3,350) as payment for his delivery of the mentioned dangerous drugs.

Cocaine is a dangerous drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance (Cap. 101 of the Laws of Malta). **Victor Anokwu** was not in possession of any valid

and subsisting import authorization granted in pursuance of the Dangerous Drugs Ordinance (Cap. 101 of the Laws of Malta).

By committing the abovementioned acts with criminal intent, **Victor Anokwu** rendered himself guilty of, by several acts committed even though committed at different times but constituting a violation of the same provision of the law and committed in pursuance of the same design, the importation of a dangerous drug, namely cocaine, into Malta.

Wherefore, the Attorney General, in his aforesaid capacity, accused **Victor Anokwu** of being guilty, on the nineteenth (19) April two thousand and nine (2009) and during the previous months, of, by several acts committed even though committed at different times but constituting a violation of the same provision of the law and committed in pursuance of the same design, meaning to bring or causing to be brought into Malta in any manner whatsoever a dangerous drug (cocaine), being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance (Cap. 101 of the Laws of Malta) when he was not in possession of any valid and subsisting import authorization granted in pursuance of the Dangerous Drugs Ordinance (Cap. 101 of the Laws of Malta).

Demanded that the accused be proceeded against according to law, and that **Victor Anokwu** be sentenced to the punishment of imprisonment for life and to a fine of not less than two thousand, three hundred and thirty Euros (€ 2,330) but not more than one hundred and sixteen thousand, five hundred Euros (€116,500), and the forfeiture in favour of the Government of Malta of the entire immovable and movable property in respect of which the offence was committed and as described in the Bill of Indictment, as is stipulated and laid down in Articles 9, 10, 12, 14, 15A, 20, 22(1)(a), (f), (1B), (2)(a)(i), (3A) (a),(b),(c),(d) and 26 of the Dangerous Drugs Ordinance (Cap. 101 of the Laws of Malta), in Regulation 4 of the 1939 Regulations on the Internal Control of Dangerous

Drugs (LN 292 of 1939) and in Articles 18, 23 and 533 of the Criminal Code (Cap. 9 of the Laws of Malta) or to any other punishment applicable according to law to the declaration of guilt of the accused.

3) After the Attorney General premised in the Third Count of the Bill of Indictment that under the same circumstances as the previous Counts of this Bill of Indictment, that is on the nineteenth (19) April two thousand and nine (2009) and during the previous months, **Victor Anokwu** wilfully and knowingly caused the importation of the aforementioned drug (cocaine) with the intention to pass on the same illegal substance to another person or persons and being fully aware that the said drug would be trafficked against the law in the Maltese Islands.

Victor Anokwu in fact, on numerous occasions, gave the drugs, or part of them, to a third party, namely Mike Diala, and the latter would sell them to third parties. This illegal activity was done at a profit for **Victor Anokwu**. In fact, **Victor Anokwu** paid three hundred and seventy Euros (€370) for each capsule of cocaine imported and gave them to Mike Diala for the price of between four hundred and twenty Euros (€420) and four hundred and eighty (€480).

Cocaine is a dangerous drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance **Victor Anokwu** was not in possession of any valid and subsisting procurement, manufacture, exportation or importation authorisation of such illegal substance, duly granted in pursuance of the said law.

By committing the abovementioned acts with criminal intent, the accused **Victor Anokwu** rendered himself guilty of by several acts committed even though committed at different times but constituting a violation of the same provision of the law and committed in pursuance of the same design, having sold or otherwise dealt in an illegal substance (cocaine), without a license by the

Minister responsible for Health or without being authorised by these Rules or by authority granted by the Minister responsible for Health to supply the drug mentioned (cocaine), or without being in possession of an import or export authorisation issued by the Chief Government Medical Officer in pursuance of the provisions of Part IV and Part VI of the Ordinance, and without being licensed or otherwise authorised to manufacture the drug or without a license to procure the same.

Wherefore, the Attorney General, in his aforesaid capacity, accused **Victor Anokwu** of being guilty of having, on the nineteenth (19) April two thousand and nine (2009) and during the previous months, by several acts committed even though committed at different times but constituting a violation of the same provision of the law and committed in pursuance of the same design, supplied or procured or offered to supply or procure an illegal substance (cocaine) to or for any person whether in these Islands or elsewhere, or advertise the drugs for sale, without a license by the Minister responsible for Health or without being authorised by these Rules or by authority granted by the Minister responsible for Health to supply the drug mentioned (cocaine), or without being in possession of an import or export authorisation issued by the Chief Government Medical Officer in pursuance of the provisions of Parts IV and VI of the Ordinance, and without being licensed or otherwise authorised to manufacture the drug or without a license to procure the same;

Demanded that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to fine of not less than two thousand three hundred and thirty Euro (€2330) and not more than one hundred sixteen thousand and five hundred Euro (€116,500) and to the forfeiture in favour of the Government of Malta 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 sections 9, 10(1), 12, 14, 15(A), 20, 22(1)(a)(2)(a)(i)(1B)(3A)(a)(b)(c)(d) and 26 of the

Dangerous Drugs Ordinance and regulations 4 and 9 of the Internal control of Dangerous Drugs Rules, 1939 (Government Notice 292 of 1939), and in Articles 18, 23 and 533 of the Criminal Code (Cap. 9 of the Laws of Malta) or to any other punishment applicable according to law to the declaration of guilty of the accused.

4) After the Attorney General premised in the Fourth Count of the Bill of Indictment that under the same circumstances as the previous Counts of this Bill of Indictment, that is on the nineteenth (19) April two thousand and nine (2009) and during the previous months, **Victor Anokwu** was in the illegal possession of the dangerous drug cocaine. The police effected a search at the premises in St. Timothy Street, St. Paul's Bay, which are under the control of **Victor Anokwu**, and found therein a total of ninety-four (94) capsules containing the dangerous drug cocaine.

Upon further investigations, it resulted that these mentioned capsules contained a total of slightly more than 1 kg (1000.62 gr) of the dangerous drug cocaine with the purity ranging from 34% to 43%. The total street value of the drugs found ranges from € 67,041 to € 104,864.98.

Cocaine is a dangerous drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance (Cap. 101 of the Laws of Malta). **Victor Anokwu** was not in possession of any valid and subsisting import or possession authorization granted in pursuance of the Dangerous Drugs Ordinance (Cap. 101 of the Laws of Malta).

By committing the abovementioned acts with criminal intent, **Victor Anokwu** rendered himself guilty, by several acts committed even though committed at different times but constituting a violation of the same provision of the law and committed in pursuance of the same design, of the offence of the illegal possession of a dangerous drug in Malta, under such circumstances that such possession was not for the exclusive use of the offender.

Wherefore, the Attorney General, in his aforesaid capacity, accused **Victor Anokwu** of, on the nineteenth (19) April two thousand and nine (2009) and during the previous months, being guilty of, by several acts committed even though committed at different times but constituting a violation of the same provision of the law and committed in pursuance of the same design, knowingly having been in possession of a dangerous drug (cocaine) being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance (Cap. 101 of the Laws of Malta) when he was not in possession of any valid and subsisting import or possession authorization granted in pursuance of the Dangerous Drugs Ordinance (Cap. 101 of the Laws of Malta); so, however, that such offence was under such circumstances that such possession was not for the exclusive use of the offender.

Demanded that the accused be proceeded against according to law, and that **Victor Anokwu** be sentenced to the punishment of imprisonment for life and to a fine of not less than two thousand, three hundred and thirty Euros (€ 2,330) but not more than one hundred and sixteen thousand, five hundred Euros (€116,500), and the forfeiture in favour of the Government of Malta of the entire immovable and movable property in respect of which the offence was committed and as described in the Bill of Indictment, as is stipulated and laid down in Articles 9, 10, 12, 14, 20, 22(1)(a),(2)(a)(i), (3A)(a),(b),(c),(d) and 26 of the Dangerous Drugs Ordinance (Cap. 101 of the Laws of Malta), in Regulation 8 and 9 of the Internal control of Dangerous Drugs Rules, 1939 (Government Notice 292 of 1939), and in Articles 18, 23, and 533 of the Criminal Code (Cap. 9 of the Laws of Malta) or to any other punishment applicable according to law to the declaration of guilt of the accused.

Having seen all the records of the case, including those of the compilation of evidence before the Court of Magistrates (Malta) as a Court of Criminal Inquiry;

Having seen the joint application filed by the Attorney General and the accused in the course of today's sitting, whereby, after declaring that in the event that the accused was filing a guilty plea to the charges brought forward in his regard in the above referred to Bill of Indictment, requested that the punishment to be awarded should consist of a term of imprisonment of ten (10) years and the imposition of a fine of thirty thousand Euros (€30,000) together with the other sanctions and consequences that are prescribed by law for the above conviction in terms of the provisions of the Dangerous Drugs Ordinance Chapter 101 of the Laws of Malta, including the confiscation of any monies and movable and immovable properties of the accused.

Having seen that in today's sitting the accused, in reply to the question as to whether he was guilty or not guilty of the charges preferred against him under the three counts of the Bill of Indictment, stated that he was pleading guilty thereto;

Having seen that this Court then warned the accused in the most solemn manner of the legal consequences of such statement and allowed him a short time to retract it, according to Section 453 (Chap. 9);

Having seen that the accused being granted such a time, persisted in his statement of admission of guilt;

Now therefore declares Victor Anokwu guilty of all four counts in the Bill of Indictment, namely of having:-

1. on the 19th April, 2009 and during the previous months, by several acts committed even though committed at different times but constituting a violation of the same provision of the law and committed in pursuance of the same design, having with another one or more persons in Malta or outside Malta, conspired for the purposes of selling or dealing in a drug in these Islands against the provisions of the Dangerous Drugs Ordinance, (Cap. 101 of the Laws of Malta), and specifically of importing and dealing in any manner in the drug Cocaine, and having promoted, constituted, organised and financed

such conspiracy, and this according to the First Count of the Bill of Indictment;

2. on the 19th April, 2009 and during the previous months, of, by several acts committed even though committed at different times but constituting a violation of the same provision of the law and committed in pursuance of the same design, meaning to bring or causing to be brought into Malta in any manner whatsoever a dangerous drug (cocaine), being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance (Cap. 101 of the Laws of Malta) when he was not in possession of any valid and subsisting import authorization granted in pursuance of the Dangerous Drugs Ordinance (Cap. 101 of the Laws of Malta), and this according to the Second Count of the Bill of Indictment;

3. on the 19th April, 2009 and during the previous months, by several acts committed even though committed at different times but constituting a violation of the same provision of the law and committed in pursuance of the same design, supplied or procured or offered to supply or procure an illegal substance (cocaine) to or for any person whether in these Islands or elsewhere, or advertise the drugs for sale, without a license by the Minister responsible for Health or without being authorised by these Rules or by authority granted by the Minister responsible for Health to supply the drug mentioned (cocaine), or without being in possession of an import or export authorisation issued by the Chief Government Medical Officer in pursuance of the provisions of Parts IV and VI of the Ordinance, and without being licensed or otherwise authorised to manufacture the drug or without a license to procure the same, and this according to the Third Count of the Bill of Indictment;

4. on the 19th April, 2009, and during the previous months, of, by several acts committed even though committed at different times but constituting a violation of the same provision of the law and committed in pursuance of the same design, knowingly having been in possession of a dangerous drug (cocaine) being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance (Cap.

101 of the Laws of Malta) when he was not in possession of any valid and subsisting import or possession authorization granted in pursuance of the Dangerous Drugs Ordinance (Cap. 101 of the Laws of Malta); so, however, that such offence was under such circumstances that such possession was not for the exclusive use of the offender, and this according to the Fourth Count of the Bill of Indictment.

Having considered all the circumstances of the case, this Court is satisfied that the combination of sanctions and measures requested by the prosecution and the accused are those which it would have been lawful for it to impose upon conviction for the offences to which the accused has pleaded guilty and that it does not have cause to order the trial of the cause to be proceeded with or to reject said request for any other reason.

Having considered the guilty plea of the accused after the Court explained to him in clear terms the consequences of his request, now proceeds to pass the sentence indicated to it by the parties as aforestated.

Having seen articles 9, 10(1), 12, 14, 15A, 20, 22(1)(a)(f)(1A)(1B)(2)(a)(i) (3A)(a)(b)(c)(d)(7), 22(A), 24A, and 26 of the Dangerous Drugs Ordinance (Chap.101); Regulations 4, 8 and 9 of the 1939 Regulations for the Internal Control of Dangerous Drugs (L.N. 292/1939) and Sections 17, 18, 23, 23A, 23B, 23C and 533 of the Criminal Code ;

Now therefore condemns the said Victor Anokwu to a term of imprisonment of ten (10) years, and to the payment of a fine (multa) of thirty thousand Euros (€30,000), which fine (multa) shall be converted into a further term of imprisonment of eighteen months according to Law, in default of payment ;

Furthermore condemns him to pay the sum of five thousand, three hundred and eleven Euros and twenty two cents (€ 5311.22) being the sum total of the expenses

Informal Copy of Judgement

incurred in the appointment of court experts in this case in terms of Section 533 of Chapter 9 of the Laws of Malta;

Furthermore, orders the forfeiture in favour of the Government of Malta of all the property involved in the said crimes of which he has been found guilty and other moveable and immovable property belonging to the said Victor Anokwu.

And finally orders the destruction of all the objects exhibited in Court, consisting of the dangerous drugs or objects related to the abuse of drugs, which destruction shall be carried out by the chemist Mario Mifsud, under the direct supervision of the Deputy Registrar of this Court who shall be bound to report in writing to this Court when such destruction has been completed, unless the Attorney General files a note within fifteen days declaring that said drugs are required in evidence against third parties.

< Final Judgement >

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