



**CRIMINAL COURT**

**THE HON. MR. JUSTICE  
LAWRENCE QUINTANO**

Sitting of the 27 th January, 2012

Number 22/2011

**The Republic of Malta  
Vs  
Brigitte Annemarie Malwal**

**The Court,**

Having seen the bill of indictment no. 22/2011 against the accused Brigitte Annemarie Malwal wherein she was charged with:

- 1) After the Attorney General premised in the First Count of the Bill of Indictment that  
on the twenty second (22<sup>nd</sup>) day of October of the year two thousand and nine (2009) and during the previous days and weeks, Brigitte Annemarie Malwal (hereinafter referred to as “MALWAL” or the “accused” as the case may be) decided to start dealing, offering, supplying and importing drugs illegally into the Maltese Islands in agreement with others.

In fact on the dates abovementioned, the accused MALWAL conspired and agreed with other persons, namely a certain lyke, Inusend (or Innocent), Ifayne and others, to illegally deal in and export from Spain to the Maltese Islands a quantity of the drug cocaine (circa 440.11 grams) (hereinafter referred to as the “drug consignment”). The accused, lyke, Inusend and

Ifayne met close to the Metro Station “Florista” in Valencia, where they discussed the drug deal, which was first to take the accused to Italy, but which plans were later on changed so that the accused was, and agreed to come, to Malta instead.

The accused, lyke, Inusend and Ifayne agreed also about the mode of action as to how this drug consignment was to reach Malta and eventually how it was to be dealt with in Malta following its arrival. They agreed about the route that this drug consignment was to take (Valencia, Barcellona, and Girona in Spain to Malta); the packing and/or means of concealment (the drug cocaine was to be packed in capsules, later to be ingested and swallowed by MALWAL, with one such larger capsule being inserted in her vagina) and/or the means of transport (partly by car, partly by bus and partly by air travel) which was to be used in order for this quantity of the drug cocaine to be illegally brought and imported into Malta and this in order for the said drug to be eventually dealt with illegally within the Maltese Islands.

MALWAL agreed and planned with the said Ifayne, Inusend (or Innocent) and others, to eventually make telephonic contact after MALWAL would have reached the hotel in Malta (Topaz Hotel) in order to receive instructions as to the person she was to meet in Malta, and who was to receive from her the said drug consignment for its eventual trafficking and distribution in the Maltese Islands (this person being Izuchuckwu Nwakaeze).

MALWAL agreed to provide the necessary assistance for this illegal activity to take place, which activity causes untold harm to Maltese society and an illegal financial gain to the accused (circa €500-€600), which financial gain was also at the basis of this conspiracy.

In execution of these pre-concerted plans, on the 21<sup>st</sup> October 2009 the accused, Inusend, lyke and Ifanye met in a house in Valencia. There the accused ingested and swallowed what later resulted to be thirty (30) capsules filled with the drug cocaine with some drink, and inserted one such other larger capsule in her vagina. Later on that date, MALWAL proceeded (accompanied by another unidentified man) by bus to Barcellona and then to Girona airport.

On the 22<sup>nd</sup> October 2009, MALWAL boarded the Ryan Air flight FR9012 leaving from Girona, Spain destination Malta, carrying inside her body and in her vagina a total of 31 capsules filled with the said quantity of the drug cocaine. However, in order for the accused to try to hide her real identity from the competent authorities, she presented herself as, and boarded this flight under a different name, that is Nicole Dietrich Mbach (instead of her real name Brigitte Annemarie Malwal). This Nicole Dietrich Mbach was allegedly a friend of the accused. However, later on, after that the police apprehended the accused at the Topaz Hotel in Bugibba, the said accused admitted that her real name was Brigitte Annemarie Malwal and not Nicole Dietrich Mbach as she had at first claimed and that she had boarded the flight under a different identity. The accused confirmed to the police that she was indeed Brigitte Annemarie Malwal.

On the 22<sup>nd</sup> October 2009, MALWAL therefore arrived in the Maltese Islands carrying inside her body the said drug consignment.

MALWAL was not authorized to be in possession of or import such dangerous drugs in terms of Law.

MALWAL managed to leave the Malta International Airport towards her destination in Malta, which was the Topaz Hotel. However, the Malta Police Force managed to intervene in due time before this amount of drug cocaine managed to reach its intended final destination in the Maltese Islands, namely to the respective consignee of the said drug cocaine which was to be Izuchukwu Nwakaeze. After that the accused had checked-in at the Topaz Hotel, the Police effected a search in the room wherein the accused was lodging and after that the accused identified herself with the police as Brigitte Annemarie Malwal, there they found twelve capsules and on larger capsule. From there the accused was escorted to Mater Dei Hospital where she continued to pass the remaining capsules.

Following this, it transpired that MALWAL was carrying circa 440.11 grams of the drug cocaine with a purity of circa 42.3% (as determined later by the Court appointed expert). This consignment of the drug cocaine was the subject matter of the abovementioned conspiracy. The street value of this drug as determined by the Court appointed expert amounted to circa thirty three thousand four hundred and forty eight Euro (€33, 448).

The drug cocaine is scheduled as per Part 1 of the First Schedule of the Dangerous Drugs Ordinance;

By committing the abovementioned acts with criminal intent, MALWAL rendered herself guilty of conspiracy to trafficking in dangerous drugs (cocaine) in breach of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta.

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accused MALWAL of being guilty of having, on the twenty second (22<sup>nd</sup>) day of October of the year two thousand and nine (2009) and during the previous days and weeks 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 (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 demanded that the accused be proceeded against according to law, and that she 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 four hundred and sixty-eight euro and sixty-seven cents (€116,468.67) and the forfeiture in favour of the Government of Malta of the entire immovable and movable property of the accused, as is stipulated and laid down in articles 2, 9, 10(1), 12, 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, Chapter 101 of the Laws of Malta and of articles 17, 23, 23A, 23B, 23C and 533 of the Criminal Code, Chapter 9 of the Laws of Malta or to any other punishment applicable according to law to the declaration of guilty of the accused.

2) After the Attorney General premised in the Second Count of the Bill of Indictment that within and during the same context of place, time, facts and circumstances mentioned in the preceding count of this bill of indictment, that is to say on the twenty second (22<sup>nd</sup>) day of October of the year two thousand and nine (2009) and during the previous days and weeks, MALWAL decided to export from Spain a quantity of the drug cocaine to be imported into the Maltese Islands. While in Spain, MALWAL met and agreed with a certain Iyke, Ifanye, and Inusend and others and agreed with them to carry out a deal aimed at the importation of the drug cocaine in the Maltese Islands which drug was then to be distributed and delivered to a person in Malta, who resulted to be Izuchukwu Nwakaeze for its eventual trafficking in the Maltese Islands.

MALWAL and the said Iyke, Ifanye and Inusend agreed that this drug cocaine consignment was to be transported from Valencia to Girona by bus, and from Girona, Spain to Malta by air transport. On the 21<sup>st</sup> October 2009 the accused was given 31 capsules filled with the drug cocaine, 30 of which to be ingested and swallowed by her and a larger one to be inserted in her vagina. On the 22<sup>nd</sup> October 2009 the accused boarded Ryan Air flight FR 9012 leaving from Girona, Spain, destination Malta, carrying these 31 capsules containing the drug cocaine inside. On this date this flight arrived and landed in Malta. MALWAL was not authorized to import such dangerous drugs in terms of Law. MALWAL therefore managed to knowingly and illegally import in the Maltese Islands the drug cocaine.

MALWAL managed to leave the Malta International Airport towards her destination in Malta, which was the Topaz Hotel. However, the Malta Police Force managed to intervene in due time before this amount of drug cocaine managed to reach its intended final destination in the Maltese Islands, namely to the respective consignee of the said drug cocaine which was to be Izuchukwu Nwakaeze. After that the accused had check-in the Topaz Hotel, the Police effected a search in the room wherein the accused was lodging and after that the accused identified herself with the police as Brigitte Annemarie Malwal, there they found twelve capsules and on larger capsule. From there the accused was escorted to Mater Dei Hospital where she continued to pass the remaining capsules.

Following this, it transpired that MALWAL was carrying circa 440.11 grams of the drug cocaine with a purity of circa 42.3% (as determined later by the Court appointed expert). This consignment of the drug cocaine was the subject matter of the abovementioned conspiracy. The street value of this drug as determined by the Court appointed expert amounted to circa thirty three thousand four hundred and forty eight Euro (€33, 448).

The drug cocaine is scheduled as per Part 1 of the First Schedule of the Dangerous Drugs Ordinance;

By committing the abovementioned acts with criminal intent, MALWAL rendered herself guilty of importing or exporting, or cause to be imported or exported, or take any steps preparatory to importing or exporting, any dangerous drug (cocaine) into or from Malta in breach of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta.

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accused MALWAL of being guilty of having, on the twenty second (22<sup>nd</sup>) day of October of the year two thousand and nine (2009), with criminal intent, imported or exported, or caused to be imported or exported, or taken any steps preparatory to importing or exporting, any dangerous drug (cocaine) into or from Malta in breach of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and demands that the accused be proceeded against according to law, and that she 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 four hundred and sixty-eight euro and sixty-seven cents (€116,468.67) and the forfeiture in favour of the Government of Malta of the entire immovable and movable property of the accused, as is stipulated and laid down in articles 2, 9, 10(1), 12, 14, 15A, 22(1)(a)(1B)(2)(a)(i)(3A)(a)(b)(c)(d)(7), 22(A), 24A, and 26 of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and of articles 17, 23, 23A, 23B, 23C and 533 of the Criminal Code, Chapter 9 of the Laws of Malta or to any other punishment applicable according to law to the declaration of guilty of the accused.

3) After the Attorney General premised in the Third Count of the Bill of Indictment that within and during the same context of place, time, facts and circumstances mentioned in the preceding count of this bill of indictment, that is to say on the twenty second (22<sup>nd</sup>) day of October of the year two thousand and nine (2009) and during the previous days and weeks, MALWAL decided to export from Spain a quantity of the drug cocaine to be imported into the Maltese Islands. While in Spain, MALWAL met and agreed with a certain Iyke, Ifanye, and Inusend and others and agreed with them to carry out a deal aimed at the importation of the drug cocaine in the Maltese Islands which drug was then to be distributed and delivered to a person in Malta, who resulted to be Izuchukwu Nwakaeze for its eventual trafficking in the Maltese Islands.

On the 21<sup>st</sup> October 2009 the accused was given 31 capsules filled with the drug cocaine, 30 of which to be ingested and swallowed by her and a larger one to be inserted in her vagina. On the 22<sup>nd</sup> October 2009 the accused boarded Ryan Air flight FR 9012 leaving from Girona, Spain, destination Malta, carrying these 31 capsules containing the drug cocaine inside. On this date this flight arrived and landed in Malta. MALWAL was therefore knowingly and illegally in possession of thirty one capsules containing circa 440.11 grams of the drug cocaine with a purity of circa 42.3% (as determined later by the Court appointed expert). This consignment of the drug cocaine was the subject matter of the abovementioned conspiracy. The street value of this drug as determined by the Court appointed expert amounted to circa thirty three thousand four hundred and forty eight Euro (€33, 448) which drug was found under circumstances denoting that it was not intended for her personal use.

MALWAL managed to leave the Malta International Airport towards her destination in Malta, which was the Topaz Hotel. However, the Malta Police Force managed to intervene in due time before this amount of



drug cocaine managed to reach its intended final destination in the Maltese Islands, namely to the respective consignee of the said drug cocaine which was to be Izuchukwu Nwakaeze. After that the accused had check-in the Topaz Hotel, the Police effected a search in the room wherein the accused was lodging and after that the accused identified herself with the police as Brigitte Annemarie Malwal, there they found twelve capsules and on larger capsule. From there the accused was escorted to Mater Dei Hospital where she continued to pass the remaining capsules.

The drug cocaine is scheduled as per Part 1 of the First Schedule of the Dangerous Drugs Ordinance;

Consequently by committing the abovementioned acts with criminal intent, MALWAL rendered herself guilty of being in possession of a dangerous drug (cocaine) as specified in the First Schedule of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta when she was not in possession of an import or an export authorization issued by the Chief Government Medical Officer in pursuance of the provisions of regulations 4 and 6 of the hereunder mentioned Regulations, and when she was not licensed or otherwise authorized to manufacture or supply the mentioned drugs, and was not otherwise licensed by the President of Malta or authorized by the Internal Control of Dangerous Drugs Regulations (G.N. 292/1939) to be in possession of the mentioned drugs, and failed to prove that the mentioned drugs were supplied to her for her personal use, according to a medical prescription as provided in the said regulations and this in breach of the 1939 Regulations of the Internal Control of Dangerous Drugs (G.N. 292/1939) as subsequently amended by the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and which drug was found under circumstances denoting that it was not intended for her personal use.

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and

circumstances narrated above, accused MALWAL that on the twenty second (22<sup>nd</sup>) October of the year two thousand and nine (2009), in Malta, and with criminal intent, rendered herself guilty of being in possession of a dangerous drug (cocaine) as specified in the First Schedule of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta when she was not in possession of an import or an export authorization issued by the Chief Government Medical Officer in pursuance of the provisions of regulations 4 and 6 of the hereunder mentioned Regulations, and when she was not licensed or otherwise authorized to manufacture or supply the mentioned drugs, and was not otherwise licensed by the President of Malta or authorized by the Internal Control of Dangerous Drugs Regulations (G.N. 292/1939) to be in possession of the mentioned drugs, and failed to prove that the mentioned drugs were supplied to her for her personal use, according to a medical prescription as provided in the said regulations and this in breach of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) as subsequently amended by the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and which drug was found under circumstances denoting that it was not intended for her personal use, and demanded that the accused be proceeded against according to law, and that she 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 four hundred and sixty-eight euro and sixty-seven cents (€116,468.67) and the forfeiture in favour of the Government of Malta of the entire immovable and movable property of the accused, as is stipulated and laid down in articles 2, 9, 10(1), 12, 22(1)(a)(2)(a)(i)(3A)(a)(b)(c)(d)(7), 22(A), 24A, and 26 of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and of regulations 2, 4, 6, 9 and 16 of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) and of articles 17, 23, 23A, 23B, 23C and 533 of the Criminal Code,

Chapter 9 of the Laws of Malta or to any other punishment applicable according to law to the declaration of guilty 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 on the 25<sup>th</sup> January, 2012, whereby, after declaring that in the event that the accused was filing a guilty plea to the charges brought forward in her regard in the above referred to Bill of Indictment, requested that the punishment to be awarded should consist of a term of imprisonment of six (6) years and the imposition of a fine of twenty three thousand Euros (€23,000) 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 Chapter 101 of the Laws of Malta, including the confiscation of any monies and other movable and immovable property of the accused.

Having seen that on 23<sup>rd</sup> January, 2012 and in today's sitting the accused, in reply to the question as to whether she was guilty or not guilty of all the charges preferred against her under the counts of the Bill of Indictment, stated that she 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 her a short time to retract it, according to Section 453 (Chap. 9);

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

Now therefore declares Brigitte Annemarie Malwal guilty of all counts in the Bill of Indictment, namely of having:-

1. on the 22<sup>nd</sup> October 2009 and during the previous days and weeks 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 (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 this according to the First Count of the Bill of Indictment;

2. on the 22<sup>nd</sup> October, 2009 and during the previous days and weeks with criminal intent, imported or exported, or caused to be imported or exported, or taken any steps preparatory to importing or exporting, any dangerous drug (cocaine) into or from Malta in breach of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, and this according to the Second Count of the Bill of Indictment;

3. on the 22<sup>nd</sup> October, 2009 and during the previous days and weeks, with criminal intent, rendered herself guilty of being in possession of a dangerous drug (cocaine) as specified in the First Schedule of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta when she was not in possession of an import or an export authorization issued by the Chief Government Medical Officer in pursuance of the provisions of regulations 4 and 6 of the hereunder mentioned Regulations, and when she was not licensed or otherwise authorized to manufacture or supply the mentioned drugs, and was not otherwise licensed by the President of Malta or authorized by the Internal Control of Dangerous Drugs Regulations (G.N. 292/1939) to be in possession of the mentioned drugs, and failed to prove that the mentioned drugs were supplied to her for her personal use, according to a medical prescription as provided in the said regulations and this in breach of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) as subsequently amended by the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and which drug was found under circumstances denoting that it was not intended for her personal use, and this according to the Third 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 that section 29 of Chapter 101 is applicable in her case.

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

Having seen articles 2, 9, 10(1), 12, 14, 15, 15(A), 20, 22(1)(a)(d)(f)(1A)(1B)(2)(a)(i)(3A)(a)(b)(c)(d), 25, 26, 29, 30 and 30A of the Dangerous Drugs Ordinance (Chap.101); Regulations 4, and 9 of the 1939 Regulations for the Internal Control of Dangerous Drugs (L.N. 292/1939) and Sections 17, 18, 20, 22, 23, 23A, 23B, 23C and 533 of the Criminal Code (Cap. 9 of the Laws of Malta).

Now therefore condemns the said Brigitte Annemarie Malwal to a term of imprisonment of six (6) years, and to the payment of a fine (multa) of twenty three thousand Euros (€23,000), which fine (multa) shall be converted into a further term of imprisonment of twelve months according to Law, in default of payment ;

Furthermore condemns her to pay within month the sum of one thousand seven hundred and six Euros and sixty four cents (€1706.64) being the sum total of the expenses incurred in the appointment of court experts in this case in terms of Section 533 of Chapter 9 of the Laws of Malta. Should this sum not be paid, then it should be converted into a prison term in accordance with the law.

Furthermore, orders the forfeiture in favour of the Government of Malta of all the property involved in the said crimes of which she has been found guilty and other

Informal Copy of Judgement

movable and immovable property belonging to the said Brigitte Annemarie Malwal.

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 as soon as possible by 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 the said drugs are required in evidence against third parties.

**< Final Judgement >**

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