



MALTA

QORTI KRIMINALI
ONOR. IMHALLEF
MICHAEL MALLIA

Seduta tat-12 ta' Marzu, 2014

Numru 23/2013

Bill of Indictment No: 23/2012

The Republic of Malta

Vs

Rodney Andrew Molt

Omissis

Today the 12th March, 2014

The Court,

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Having seen the bill of indictment no. 23/2012 against the accused Rodney Andrew Molt and *Omissis* wherein they was charged with:

In the FIRST COUNT of the bill of indictment whereby the Attorney General premised:

That on the fourth (4) March of the year two thousand and eleven (2011), Drug Squad police were informed by customs officials at the Malta International Airport that a parcel sent to Malta from Prague and suspected of containing drugs had been intercepted. When the parcel was analysed it transpired that it contained four (4) plastic bags containing approximately one hundred twenty five (125) grams of white powder, suspected of being the illicit drug mephedrone. The postal address on the parcel was Palm's, Flat 1, Razzett Complex, Triq il-Mithna, Attard, Malta where the recipient of the said parcel was indicated as Andrew Molt, who transpired to be the same person as Rodney Andrew Molt qua one of the accused. Moreover it transpired that *Omissis* was also residing at this same address as the accused Molt. This fact was confirmed by the police investigating the case following a controlled delivery of a decoy parcel similar to the one intended for them and a search carried out in accordance to law by the drug-squad police on the 5th March of the year two thousand and eleven (2011).

That it transpired from the investigations that on the fifth (5) March of the year two thousand and eleven (2011) and in the preceding months, the accused persons Rodney Andrew Molt and *Omissis*, decided to start trafficking illegally in mephedrone. The accused had knowingly conspired with other persons outside Malta to import the illicit drug to Malta making the necessary arrangements to receive a parcel from Prague containing the substance in question and which parcel was packed in such a way so as to disclose its illicit contents. It also transpired in the course of investigations that the accused persons had in fact ordered another parcel from Frankfurt which was also analysed and which also contained a number of pills as well as a stack of rolled money and packets labelled as Flower Magic Powder and Sensation Powder. These parcels and their content were imported in favour of the accused persons and with their knowledge and consent, in order for the substances therein to be trafficked locally.

Fortunately the accused persons were arrested by the police on the fifth (5) March 2011, which thus prevented them from trafficking the illicit substances in our country. Following the necessary analysis carried out by forensic experts of the contents of the parcels addressed to the accused persons, it transpired that the four packets within the parcel from Prague consisted of Mephedrone which is an illicit substance and is termed as a dangerous

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drug in accordance with our laws. Likewise the sensation powder tested positive for mephedrone.

By committing the abovementioned acts with criminal intent, Rodney Andrew Molt and *Omissis* rendered themselves guilty of conspiracy to trafficking in dangerous drugs in breach of the provisions of the Medical and Kindred Professions Ordinance.

Wherefore, the Attorney General, in his capacity, accuses Rodney Andrew Molt and *Omissis* of having on the fifth (5) March of the year two thousand and eleven (2011) and in the preceding months, of rendering themselves guilty of conspiracy to traffic in dangerous drugs in breach of the provisions of the Medical and Kindred Professions Ordinance (Chapter 31 of the Laws of Malta) or of promoting, constituting, organising or financing the conspiracy; demands that the accused persons be proceeded against according to law, and that they are sentenced to the punishment of imprisonment for life and to a 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 40A, 120A(1)(f), 120A(1A), 120A(2)(a)(i),(2A),(2B) and 121A(1)(2) of the Medical and Kindred Professions Ordinance and articles 22A, 22B, 22E, 27, 28 and 30 of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) and in sections 23 and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilty of the accused persons.

In the SECOND COUNT of the bill of indictment whereby the Attorney General premised:

That owing to the nature of the circumstances which took place on the fifth (5) March of the year two thousand and eleven (2011) and during the preceding months, as indicated in the first Count of this Bill of Indictment it transpired that the accused persons wilfully and knowingly made the necessary arrangements to receive parcels which were sent from Prague and Frankfurt respectively and which parcels consisted of Mephedrone which constitutes an illegal drug in accordance with our law. The accused persons gave their full consent to the importation of such a substance and in fact acknowledged that the parcels were addressed to the residential address where both Molt and *Omissis* were residing and that they were the intended recipients. The circumstances as well as the quantum of the drugs found indicated also that both accused were fully aware of the illegal purpose and the contents of the parcels which they received in Malta. Effectively if the customs officials and the Drug Squad Police failed to notice the parcel and investigate further, the contents of

these parcels would have been transferred to third parties in Malta and would have likely been trafficked for financial gain.

The accused persons were not in possession of any licence or authorisation issued under the Medical and Kindred Professions Ordinance (Chapter 31 of the Laws of Malta), which authorised or permitted in any way the importation of the dangerous drug concerned by the accused.

Mephedrone is a psychotropic drug specified and controlled under the provisions of Part A, Third Schedule, of the Medical and Kindred Professions Ordinance. Moreover neither one of the accused was in possession of any valid and subsisting import authorisation granted in pursuance of the said law.

By committing the abovementioned acts with criminal intent, the accused persons Rodney Andrew Molt and *Omissis* rendered themselves guilty of meaning to bring or causing to be brought into Malta in any manner whatsoever a dangerous drug (Mephedrone), being a drug specified and controlled under the provisions of Part A, Third Schedule, of the Medical and Kindred Professions Ordinance (Chapter 31 of the Laws of Malta), when they were not in possession of any valid and subsisting import authorisation granted in pursuance of the said law.

Wherefore, the Attorney General, in his capacity, accuses Rodney Andrew Molt and *Omissis* of having on the fifth (5) March 2011 and in preceding months, of rendering themselves guilty of meaning to bring or causing to be brought into Malta in any manner whatsoever a dangerous/psychotropic drug (Mephedrone), being a drug specified and controlled under the provisions of Part A, Third Schedule, of the Medical and Kindred Professions Ordinance (Chapter 31 of the Laws of Malta), when they were not in possession of any valid and subsisting import authorisation granted in pursuance of the said law; demands that the accused persons be proceeded against according to law, and that they 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) each 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 2(1), 40A, 120A(1)(a),(1B),120A(2)(a)(1), (2A)(2B) and 121A(1)(2) of the Medical and Kindred Professions Ordinance and regulations 2 and 3(1) of Legal Notice 22 of 1985, Legal Notice 77 of 1988 and Legal Notice 183 of 1999 and articles 23 and 533 of the Criminal Code (Chapter 9) and regulation 9 of the 1939 Regulations for the Internal control of Dangerous Drugs

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(Legal Notice 292/39), and in sections 23 and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilty of the accused.

In the THIRD COUNT of the bill of indictment whereby the Attorney General premised:

That owing to the nature of the circumstances which took place on the fifth (5) March of the year two thousand and eleven (2011) and during the preceding months, as indicated in the first two counts of this Bill of Indictment, it transpired that the accused persons wilfully and knowingly imported the aforementioned drug (Mephedrone) 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. This was also indicative from some of the objects found in the residence of the accused persons including scales and plastic packets which are associated to distribution and trafficking of drugs, particularly in the circumstances in which they were found an also owing the quantum of Mephedrone found which was a rather substantial amount. Moreover the accused *Omissis* actually admitted to the distribution of the contents of the parcel found during parties and against payment of fifteen Euro (€15) per packet.

Mephedrone is a psychotropic drug specified and controlled under the provisions of Part A, Third Schedule, of the Medical and Kindred Professions Ordinance. Moreover neither one of the accused persons was in possession of any valid and subsisting import authorisation granted in pursuance of the said law.

By committing the abovementioned acts with criminal intent, the accused persons Rodney Andrew Molt and *Omissis* rendered themselves guilty of having on the fifth (5) March of the year two thousand and eleven 2011 and in preceding months, sold or otherwise dealt in an illegal substance (Mephedrone), 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 (Mephedrone), or without being in possession of an import or export authorisation issued in accordance with law, 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 capacity, accuses Rodney Andrew Molt and *Omissis* of having on the fifth (5) March of the year two thousand and eleven 2011 and in preceding months, rendered themselves guilty of selling or otherwise dealing in an illegal substance (mephedrone), 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 (Mephedrone), or without being in possession of an import or export authorisation issued in accordance with law, and without being licensed or otherwise authorised to manufacture the drug or without a license to procure the same; demands that the accused persons be proceeded against according to law, and that they 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 40A, 120A(1)(a),(1B),120A(2)(a)(1), (2A)(2B) and 121A(1)(2) of the Medical and Kindred Professions Ordinance and regulations 2 and 3(1) of Legal Notice 22 of 1985, Legal Notice 77 of 1988 and Legal Notice 183 of 1999 and articles 23 and 533 of the Criminal Code (Chapter 9) and regulation 9 of the 1939 Regulations for the Internal control of Dangerous Drugs (Legal Notice 292/39), and in sections 23 and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilty of the accused.

In the FOURTH COUNT of the bill of indictment whereby the Attorney General premised:

That having imported into Malta on the fifth (5) March and in the preceding months of the year two thousand and eleven (2011), the dangerous/psychotropic drug Mephedrone in breach of the provisions of Chapter 31 of the Laws of Malta, as described under the first second and third count of this Bill of Indictment, the parcels addressed to the residential address of Rodney Andrew Molt and *Omissis* were search in accordance to law and analysed forensically/scientifically, where it transpired that four (4) transparent bags containing the aggregate amount of five hundred and six point seventeen grams (506.17grms) of Mephedrone were found in the parcels in question. Apart from the fact that the accused *Omissis* didn't deny the unlicensed trafficking and distribution of the said substance, the amount in itself is indicative that the illegal substance was too great to be intended merely for personal use.

Mephedrone is a psychotropic drug specified and controlled under the provisions of Part A, Third Schedule, of the Medical and Kindred Professions Ordinance. Moreover neither one of the accused was in possession of any valid and subsisting import authorisation granted in pursuance of the said law.

By committing the abovementioned acts with criminal intent, the accused Rodney Andrew Molt and *Omissis* rendered themselves guilty of possession of a dangerous/psychotropic drug (Mephedrone), being a drug specified and controlled under the provisions of Part A, Third Schedule, of the Medical and Kindred Professions Ordinance (Chapter 31 of the Laws

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of Malta) when not in possession of any valid and subsisting import or possession authorization granted in pursuance of the said law, and with intent to supply in that such possession was not for the exclusive use of the offenders.

Wherefore, the Attorney General, in his capacity, accuses Rodney Andrew Molt and *Omissis* of having on the 5th March 2011 and in preceding months, of rendering themselves guilty of possession of a dangerous/psychotropic drug (Mephedrone), being a drug specified and controlled under the provisions of Part A, Third Schedule, of the Medical and Kindred Professions Ordinance (Chapter 31 of the Laws of Malta) when not in possession of any valid and subsisting import or possession authorization granted in pursuance of the said law, and with intent to supply in that such possession was not for the exclusive use of the offenders; demands that the accused persons be proceeded against according to law, and that they 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 40A, 120A(1)(a), 120A(2)(a)(1), (2A)(2B), 120A(1)(f)(2)(a)(1) and 121A(1)(2) of the Medical and Kindred Professions Ordinance (Chapter 31), Regulation 10(2) of Legal Notice 22/85, Legal Notices 77/88 and 183/99 u articles 22A, 22B, 22E, 27, 28 u 30 of the Dangerous Drugs Ordinance (Chapter 101) 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 persons.

In the FIFTH AND FINAL COUNT of the bill of indictment whereby the Attorney General premised:

That with reference to the preceding counts of this bill of indictment, that is on the fifth (5) March and in the preceding months of the year two thousand and eleven (2011), apart from finding the dangerous/psychotropic drug Mephedrone in breach of the provisions of Chapter 31 of the Laws of Malta, specifically during the search carried out at the residential address of the accused persons i.e. Palm's, Flat 1, Razzett Complex, Triq il-Mithna, Attard, Malta other items related to drug use and supply were found and confiscated by the police and in that regard traces of cocaine, which also constitutes an illicit substance and dangerous drug in terms of our law was found as well as Lidocain which is a cutting agent for Cocaine and which could therefore give rise to an increased quantity and dose of Cocaine which could ultimately be distributed to others. Hence although the amount of Cocaine in itself is not particularly high the presence of Lidocain is indicative that the cocaine was not intended merely for personal use. Moreover on the basis of the statement released by the accused *Omissis*, neither her nor Molt ever made use of Cocaine therefore furthermore indicating that the cocaine was not intended for personal use.

That on the other hand from Molt's statement, his connection to this dangerous substance was inferred in that he failed to give a reasonable reply when questioned about the Cocaine found in his premises by police authorities and this after he duly consulted with his lawyer. The amount of Cocaine amounted to point forty one grams (0.41grms) carrying a purity level of thirty percent (30%) and carried the financial value of thirty one Euro and sixteen cents (€31.16). With regards to Lidocain the amount of one point eighty one grams (1.81grms) was found.

Cocaine is a dangerous drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance. Rodney Andrew Molt 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 Rodney Andrew Molt rendered himself guilty of possession of a dangerous drug (Cocaine), being a drug specified and controlled under the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) when not in possession of any valid and subsisting import or possession authorization granted in pursuance of the said law, and with intent to supply in that such possession was not for the exclusive use of the offender.

Wherefore, the Attorney General, in his capacity, accuses Rodney Andrew Molt of having on the 5th March 2011 and in preceding months, rendered himself guilty of possession of a dangerous drug (Cocaine), being a drug specified and controlled under the provisions Part I, First Schedule, of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) when not in possession of any valid and subsisting import or possession authorization granted in pursuance of the said law, and with intent to supply in that such possession was not for the exclusive use of the offender; demands 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 regulation 4 of the 1939 Regulations for the Internal control of Dangerous Drugs (Legal Notice 292/39), and in sections 23 and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilt of the accused.

Having seen the joint application of the Attorney General and co-accused Rodney Andrew Molt, whereby the applicants, while declaring that they have reached an agreement in terms of article 453A(1) of the Criminal Code, humbly requested this Court that in the event that Rodney Andrew Molt admits all the charges proffered against him in the bill of indictment, the punishment to be awarded by this same honourable Court will consist of a term of imprisonment of six (6) years and the imposition of a fine of fifteen thousand Euros (€15,000) together with the other sanctions and consequences that are mandatory prescribed by Law upon conviction in terms of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta, as well as the Medical and Kindred Professions Ordinance, Chapter 31 of the Laws of Malta including the confiscation of any monies and other movable and immovable property of the accused in accordance to law.

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 that in today's sitting the co-accused Rodney Andrew Molt, in reply to the question as to whether he was guilty or not guilty of the charges preferred against him under the five 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 ample time to retract it, according to Section 453 (Chap. 9);

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

Declares Rodney Andrew Molt guilty of all five counts in the Bill of Indictment, namely of having:-

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1. On the fifth (5) March of the year two thousand and eleven (2011) and in the preceding months, of rendering himself guilty of conspiracy to traffic in dangerous drugs in breach of the provisions of the Medical and Kindred Professions Ordinance (Chapter 31 of the Laws of Malta) or of promoting, constituting, organising or financing the conspiracy;
2. On the fifth (5) March 2011 and in preceding months, of rendering himself guilty of meaning to bring or causing to be brought into Malta in any manner whatsoever a dangerous/psychotropic drug (Mephedrone), being a drug specified and controlled under the provisions of Part A, Third Schedule, of the Medical and Kindred Professions Ordinance (Chapter 31 of the Laws of Malta), when he was not in possession of any valid and subsisting import authorisation granted in pursuance of the said law;
3. On the fifth (5) March of the year two thousand and eleven 2011 and in preceding months, rendered himself guilty of selling or otherwise dealing in an illegal substance (mephedrone), 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 (Mephedrone), or without being in possession of an import or export authorisation issued in accordance with law, and without being licensed or otherwise authorised to manufacture the drug or without a license to procure the same;
4. On the 5th March 2011 and in preceding months, of rendering himself guilty of possession of a dangerous/psychotropic drug (Mephedrone), being a drug specified and controlled under the provisions of Part A, Third Schedule, of the Medical and Kindred Professions Ordinance (Chapter 31 of the Laws of Malta) when not in possession of any valid and subsisting import or possession authorization granted in pursuance of the said law, and with intent to supply in that such possession was not for the exclusive use of the offender;
5. On the 5th March 2011 and in preceding months, rendered himself guilty of possession of a dangerous drug (Cocaine), being a drug specified and controlled under the provisions Part I, First Schedule, of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) when not in possession of any valid and subsisting import or possession authorization granted in pursuance of the said law, and with intent to supply in that such possession was not for the exclusive use of the offender;

Having seen articles:

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2(1), 40A, 120A(1)(a), (f), 120A(1A), (1B) 120A(2)(a)(1), (2A), (2B), 120A(1)(f)(2)(a)(1) and 121A(1)(2) of the Medical and Kindred Professions Ordinance, regulations 2, 3(1) and 10(2) of Legal Notice 22 of 1985, Legal Notice 77 of 1988 and Legal Notice 183 of 1999 and articles 9, 10(1), 12, 14, 15(A), 20, 22(1)(a)(2)(a)(i)(1B)(3A)(a)(b)(c)(d), 22A, 22B, 22E, 26, 27, 28 and 30 of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), regulation 4 and 9 of the 1939 Regulations for the Internal control of Dangerous Drugs (Legal Notice 292/39) and in sections 23 and 533 of the Criminal Code.

Condemns the said Rodney Andrew Molt to a term of imprisonment term of six (6) years and the imposition of a fine of fifteen thousand Euros (€15,000), which fine (multa) shall be converted into a further term of imprisonment of one year according to Law, in default of payment ;

Furthermore condemns him to pay the sum of five hundred sixty-one Euros and fifty-five cents (€561.55) being half of 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;

Moreover, 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 Rodney Andrew Molt.

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 Assistant Registrar of the Criminal Court, 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.

< Sentenza Finali >

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