



Court of Criminal Appeal

Hon. Mr. Justice Giovanni M. Grixti LL.M., LL.D.

Today, 11th January, 2016

Appeal Nr: 532/2013

The Police

(Inspector Maria Stella Attard)

Vs

Gennaro Sabatasso

The Court:

Having seen the charges brought against Gennaro Sabatasso, holder of Maltese Identity Card No. 40107A, before the Court of Magistrates (Malta) as a Court of Criminal Judicature, charged with having on the 24th of February, 2013 at about 13:30hrs at Triq Mikiel Anton Vassalli, Msida: 1)drove vehicle No. CBQ-894 without being licenced by the Authority for Transport in Malta to be used on the road (vehicle licence not renewed); 2)drove vehicle No. CBQ-894 when it was not covered by a policy of insurance in respect of third party risks. The Prosecution requested that the accused be disqualified from all his driving licences for a period of time not less than twelve months.

Having seen the judgment of the Court of Magistrates (Malta) as a Court of Criminal Judicature of the 19th November, 2013, whereby the Court after

having seen sections 15(a) and 15(3) of Chapter 65 and Art. 3(1) of Chapter 104 found the accused guilty of all the offences and sentenced him to payment of a fine (multa) of €2400 payable over a period of twenty four (24) months starting from the 1st January 2014 by monthly payments of one hundred euro (€100) and further prohibited the accused from driving for a period of one (1) year.

Having seen the appeal application presented by Gennaro Sabatasso in the Maltese language in the registry of this Court on the 29th November, 2013 whereby this Court was requested to reform the appealed judgement, confirm it in the part where he was found guilty and vary it with regards to punishment and mete a punishment which is more just.

Having seen the updated conduct sheet of the appellant, presented by the prosecution as requested by this Court;

Considered that this appeal concerns that part of the judgement dealing with the penalty imposed by the First Court on the grounds that the said Court had no authority to suspend a driving license issued by another State, namely the Italian Authorities who have the power to withdraw or suspend the appellant's driving license. Appellant also felt aggrieved by the said judgement in that he needs his driving license as part of work;

Appellant is of the opinion that any order to disqualify the accused from holding a driving license is not applicable in this case as his driving license was issued by the Italian Authorities. This Court notes that the First Court, rather than citing the exact terminology as provided in article 15(1) of Chapter 65, article 3(1) of Chapter 104 or even article 30 of the Criminal Code Chapter 9 of the laws of Malta, chose to "*prohibit the accused to drive for a period of one (1)*

year". All the above articles empower the Court to disqualify the accused from holding or obtaining a driving license for a period and in respect of article 3(1) of Chapter 104 this period is of one year. In respect of article 15(1) of Chapter 65 such disqualification shall be ordered at the request of the prosecution and in the case of article 30 of Chapter 9, it is open to Court to be decided on same at its discretion. Notwithstanding the above considerations, a finding of guilt under article 3(1) of Chapter 104 must be followed by a disqualification from holding or obtaining a driving license.

Considered further that the First Court, having found the accused guilty of the charges merits of this appeal, after having condemned him to payment of a fine, also imposed the consequential penalty of disqualifying him from driving for a period of one year. Although the First Court elected to prohibit the appellant from driving for a period of one year rather than use the wording of the law, namely to disqualify him from holding or obtaining a driving license, the effect is rather the same. In this case appellant has been prohibited from driving in the territory of Malta. The records of the case do not show whether appellant had a local or a foreign driving license and this presumably since the prosecution was not interested in that regard as the appellant was considered duly licensed to drive in Malta. The judgment does not specifically refer to any licenses issued by the Italian Authorities and in any case the prohibition imposed by the First Court is a valid one at law namely that appellant is prohibited from using the privileges of his driving license, whatever the origin, whilst in Malta;

With regard to the second argument adduced by the appellant, this Court will not over ride the discretion of the First Court in dispensing the punishment which it deems fit for the particular case unless such punishment is not within the parameter of the law or goes beyond that which is allowed by law. In this

case, the punishment is well within the said parameters in that it is a mandatory on the Court to order such prohibition for a minimum period of one year;

For the above reasons, this Court confirms the appealed judgment in all respects that is in respect of the finding of guilt on all charges, the fine imposed and the prohibition of driving for a period of one (1) year which prohibition shall have effect from today.