



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

MAGISTRATE NATASHA GALEA SCIBERRAS B.A., LL.D.

Case Number: 196/2016

Today, 12th December 2016

The Police

vs

**Ahmed Qadar Abuukar Ahmed
(ID 51922(A))**

The Court,

After having seen the charges brought against the accused Ahmed Qadar Abuukar Ahmed, 28 years of age, son of Abukar Ahmed and Seinab Mohamed, born in Mogadishu, Somalia on 1st January 1988, and residing at 'Edel', Flt 2, Triq il-Wied tal-Imsida, Msida, holder of Maltese ID card number 51922(A);

Charged with having on 22nd August 2016 and the weeks before this date on the Maltese Islands:

1. Had in his possession (otherwise than in the course of transit through Malta of the territorial waters thereof) the resin obtained from the plant cannabis, or any other preparation of which such resin formed the base, in terms of Section 8(a) of Chapter 101 of the Laws of Malta, which drug was found under circumstances denoting that it was not intended for his personal use;
2. Committed these offences in, or within 100 metres of the perimeter of a school, youth club or centre, or such other place where young people

habitually meet in breach of Article 22(2) of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta;

3. Had in his possession (otherwise than in the course of transit through Malta of the territorial waters thereof) the whole or any portion of the plant cannabis in terms of Section 8(d) of Chapter 101 of the Laws of Malta;
4. For being a recidivist after being sentenced for an offence by a judgement issued by the Court of Magistrates (Malta) presided by Magistrate Dr. A. Demicoli LL.D. on 23rd July 2015, which judgement has become absolute.¹

The Court was requested to apply Section 533(1) of Chapter 9 of the Laws of Malta, as regards the expenses incurred by the court appointed experts.

Having heard the evidence and having seen the records of the case, including the order of the Attorney General in virtue of subsection two (2) of Section 22 of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), for this case to heard by this Court as a Court of Criminal Judicature;

Having heard the accused plead guilty to the charges brought against him, during the sitting held on 30th November 2016, which guilty plea he confirmed even after the Court, in terms of Section 453(1) of Chapter 9 of the Laws of Malta, warned him of the legal consequences thereof and allowed him sufficient time to reconsider his plea and to retract it;

Having heard final oral submissions about the punishment to be inflicted.

Considered that:

In view of the guilty plea filed by the accused and also in the light of the evidence adduced in these proceedings, the Court cannot but find the accused guilty of the charges brought against him.

For the purpose of the punishment to be inflicted, the Court took into consideration the criminal record of the accused, from which it results that he had been found guilty of knowingly making a false statement in any application or recommendation in connection with the issue and renewal of a passport, in the

¹ The third and fourth charges were added following a request made by the Prosecution and a decree of this Court dated 11th November 2016, authorising the Prosecution to add such charges.

name of a third party, in terms of Chapter 61 of the Laws of Malta, in respect of which he was condemned to one month imprisonment. This forms the merit of the judgement delivered by this Court, as differently presided by Magistrate Dr. Audrey Demicoli on 23rd July 2015, a true copy of which was exhibited by the Prosecution.² The accused is thus a recidivist in terms of Sections 49 and 50 of Chapter 9 of the Laws of Malta.

The Court also took into consideration that the accused cannot be deemed to have filed an early guilty plea and this in view of the fact that when he entered such plea, the Prosecution had already tendered all its evidence and indeed, so had the defence. It is certainly therefore not the case that the Court's time and resources have been saved through the timeliness of the said plea, as evident also from the records of the proceedings, during which the Court heard several witnesses and upon the Prosecution's request, also appointed a number of court experts.

Furthermore, the Court took into consideration the serious nature of the charges brought against the accused and the amount of cannabis resin in his possession. In terms of the report drawn up by expert Scientist Godwin Sammut, Tetrahydrocannabinol was found in the extracts taken from the green grass (evidence bag with ID S00828967 containing a brown paper bag which in turn contained green grass). The total weight of the green grass is 0.06 grams. Tetrahydrocannabinol was also found in the extracts taken from the brown substances (evidence bag with ID S00828968 containing a cigarette packet which in turn contained brown substances). The total weight of the brown substances is 23.65 grams and the purity of THC in the brown substances is approximately 5%.³

Thus, whilst the amount of cannabis grass was merely slight, on the other hand, the amount of cannabis resin in the possession of the accused cannot be deemed as slight or negligible. Indeed when one considers that a typical dose of cannabis in a joint consists of 0.2 grams⁴, this means that this amount could potentially produce circa 118 cannabis joints.

Furthermore, for the purpose of the punishment to be inflicted, the Court applied the provisions of Section 17(f) of Chapter 9 of the Laws of Malta in respect of the mandatory fine (*multa*) applicable to the first charge and the fine (*multa*) that is being imposed by the Court in respect of the third charge. Furthermore, the Court

² A fol. 188 and 189 of the records. In respect of this judgement, the defence declared and agreed that such judgement was in fact delivered with respect to the accused.

³ A fol. 60 *et seq* of the records of the case.

⁴ *World Drug Report 2006 Volume I. Analysis*, pagina 96 *et seq*.

applied the increase in punishment contemplated in the second proviso of Section 22(2) of Chapter 101 of the Laws of Malta to the offence in the first charge (in terms of the second charge).

Conclusion

For these reasons, the Court after having seen Sections 8(a), 8(d), 22(1)(a), 22(2)(b)(i) and (ii) and the second proviso of Section 22(2) of Chapter 101 of the Laws of Malta, Regulation 9 of Subsidiary Legislation 101.02 and Sections 17(f), 31, 49 and 50 of Chapter 9 of the Laws of Malta, upon his guilty plea, finds the accused guilty of the charges brought against him and condemns him to **fourteen months effective imprisonment** – from which term one must deduct the period of time, prior to this judgement, during which the person sentenced has been held in preventive custody in connection with the offences of which he is being found guilty by means of this judgement – and **a fine (multa) of one thousand Euro (€1,000)**.

In terms of Section 533 of Chapter 9 of the Laws of Malta, the Court condemns the person sentenced, namely, Ahmed Qadar Abuukar Ahmed, to the payment of the expenses relating to the appointment of court expert Scientist Godwin Sammut, which expenses amount to the sum of two hundred, twenty four Euro and twenty cents (€224.20), the expenses relating to the appointment of court expert Dr. Steven Farrugia Sacco, amounting to the sum of seven hundred, thirty three Euro and forty nine cents (€733.49) and the expenses relating to the appointment of court expert PS 659 Jeffrey Hughes, amounting to the sum of seventy two Euro and sixty cents (€72.60). Such expenses amount in total to the sum of one thousand and thirty Euro and twenty nine cents (€1030.29).

The Court orders the destruction of Documents JC2, JC3 and JC4, once this judgement becomes final and definitive, under the supervision of the Registrar, who shall draw up a process verbal documenting the destruction procedure. The said process verbal shall be inserted in the records of these proceedings not later than fifteen days from the said destruction.

Furthermore, the Court orders the release of the mobile phones exhibited as Documents JC5, JC6 and JC7 in favour of the person sentenced.

Natasha Galea Sciberras
Magistrate