

In the Court of Magistrates (Malta)
as a Court of Court of Criminal Judicature
Magistrate Dr Nadine Lia; B.A., LLM(Kent); LL.D (melit)

The Police

(Inspector Priscilla Caruana Lee)

vs

Cesare Citriniti

The Court after having seen the charges in respect of:

Cesare Citriniti of 37 years, son of late Salvatore Citriniti and Vincenza Abruzzese born in Catanzaro Calabria Italy on the 14th May 1982, and residing at 199, Triq is-Swieqi, Swieqi and holder of residence permit number 211758A

And charge him with having in the early hours of the 6th of July 2019 between 00:15hrs and 01:30hrs, in various streets in Valletta as a place of World Heritage Site:

1. wilfully, or through negligence, unskillfulness or nonobservance of regulations caused damage to or destroyed any cultural property whether or not such cultural property has been registered in any inventory, that is, various residential facades, doors and commu-

nication and electrical junction boxes to the detriment of the Valletta Local Council, the Directorate Cleansing and Maintenance Division and the Superintendence of Cultural Heritage in breach of Article 53(1)(a) Chapter 445 of the Laws of Malta;

2. willfully committed any spoil or damage upon various residential facades, doors and communication and electrical junction boxes, which damage exceeds two thousand and five hundred euro (2,500) to the detriment of the Valletta Local Council, the Directorate Cleansing and Maintenance Division and the Superintendence of Cultural Heritage in breach of Article 325 (1)(a) Chapter 9 of the Laws of Malta.

The Court is humbly requested that in case of guilt the person convicted is compelled to pay to the Superintendent any cost incurred in the reintegration, or restoration of the cultural property caused by the offence this in line with article 53(2) of Chapter 445 and also article 532A of Chapter 9 of the laws of Malta.

The Court is humbly requested that in case of guilt the person convicted is compelled to the payment of the costs incurred in connection with the employment in the proceedings of any expert or referee this in line with article 533 of Chapter 9 of the Laws of Malta.

Having seen that on the 11th July 2019 the Prosecuting Officer read and confirmed the charges on oath;

Having seen that during the examination of the accused in terms of Article 390 and 392 of the Criminal Code that the accused, in reply to the question posed in terms of Article 392(1)(b) of the Criminal Code by the Court declared he was guilty.

Having seen that in view of this declaration of accused the Court warned the said accused in the most solemn manner about the consequences arising out of his guilty plea and granted him sufficient time in order for him to retract his guilty plea. The accused, after consulting with his legal counsel, reiterated and reconfirmed that he was guilty as charged.

The Court, after having seen Article 392A(1)(2) of the Criminal Code, in light of the said declaration by accused : - (a)it became ex lege competent to proceed with the determination of the merits of this case and it consequently converted itself into a court of criminal judicature; (b)in view of this same declaration by the accused, duly reiterated, the Court had no option but to find the accused guilty as charged.

Having seen that during the sitting of the 11th July 2019 the defence made a request for a pre-sentencing report to be drawn up by the Director of Probation and Parole.

Having seen that during the sitting of the 25th July 2019 the probation officer Marilyn Attard presented a pre-sentencing report with the recommendation that the accused is given a sentence which will include an alternative to imprisonment.

Having examined all the documents forming part of the proceedings;

Having seen the records of the proceedings as well as the criminal record sheet of the accused;

Having heard the final oral submissions of the Prosecuting Officer and of the Legal Counsel to the accused it considered:

That the accused was found to have committed during the night various acts of graffiti in and around Valletta in different locations, ranging from cultural property, private residential properties and public property.

The Court cannot but take note that these acts of graffiti took place in the capital city of Malta, Valletta which is one of the most concentrated historic areas in the world and designated as a UNESCO world heritage site. Despite the relatively small size of the city it is home to over 320 monuments gracing the capital and is considered by many as an open air museum.

That aside, Valletta is home to residents and a vast community of families as well as being a prime commercial centre, the principle touristic location in the Maltese islands as well as serving as the primary administrative base for government buildings. Thousands of people pass through Valletta daily and are privy to observing the acts of graffiti around the capital. These acts of graffiti visually affect many and overall leave a negative impact on the capital city which should be kept in as clean a condition as possible for both visitors and residents.

The Court also took note of the costs incurred by Superintendent of Culture and Heritage and the Valletta local council to have the graffiti removed. These costs should not be burdened by the State but are to be

shouldered by the accused and the Court as part of this judgment orders that the costs incurred in cleaning the graffiti are borne by the accused.

The Court also notes that according to law a fine (*multa*) or a term of imprisonment for this act may be imposed as part of the punishment.

The Court is of the opinion that a term of effective imprisonment will not serve the restorative justice aspect befitting the crime. Civic pride is crucially important in ensuring that respect to the Valletta community is given by everyone and hence ensure that it serves both as a deterrent for, as well as instil due respect for public, private and commercial property and appreciation towards the same persons who have to suffer the consequences that acts of graffiti leave to the capital city.

The Court in this respect thus recommends that as part of this judgment a community service order is given to be carried out by the accused with the Valletta Local Council or to the benefit of the Valletta community and ultimately serving within the capital city of Valletta.

In this way the harm caused by these acts of graffiti by the accused can be balanced out and allow the accused to view and appreciate the capital Valletta for what it is - a UNESCO world heritage site rich in history and culture, a residential home for many, a vibrant commercial and touristic centre and not a city to be covered in graffiti covertly in the dead of night.

The Court also takes note the admission of the accused at a relatively early stage of proceedings and that the parties suggested to the Court that it may consider imposing a sentence of a fine (*multa*) together with a

community service order as an alternative punishment to imprisonment as well as costs incurred in removing the graffiti.

In terms of Article 11 (4) of Chapter 446 of the Laws of Malta, the Court has, prior to the making of such community service order, explained to the accused in the English language the effects of such order and that if he fails to comply therewith or if he commits another offence, he will be liable to be sentenced for the original offence.

Decide : -

Consequently, this Court, after having seen Articles 53(1)(a), 53(2) of Chapter 445 and 325(1)(b), 532A, 533 of the Criminal Code and article 11 and 24(1) of Chapter 446 finds:

The accused Cesare Ciritini upon his unconditional guilty plea, guilty as charged and condemns him to:

1. A community service order of four hundred and fifty (450) hours to be performed within a period of two (2) years from the date of this order with the express recommendation that such community service is carried out in Valletta to the benefit of the Valletta community;
2. an aggregate fine (multa) of seven thousand, five hundred euro (€7,500);
3. the sum of three thousand, two hundred and seventy eight Euro and four cents (€3,278.04) to be paid in favour of the Superintendent of

Culture and Heritage representing costs incurred for the reintegration or restoration of the cultural property caused by the offence;

4. the sum of two thousand Euro (€2,000) to be paid in favour of the Valletta Local Council by way of compensation for damages caused in terms of article 532A of the Criminal Code and article 24(1) of Chapter 446.

The Court, in terms of article 11 (5) of Chapter 446, orders the communication of this order to the Director of Probation Services.

In terms of Article 392A(2) of the Criminal Code the Court orders that this judgment together with the record of the proceedings be transmitted to the Attorney General in terms of Law.

Delivered today the 31st July 2019 at the Courts of Justice in Valletta, Malta.

Dr. Nadine Lia

Magistrate