



**Court of Magistrates (Malta)**  
**As a Court of Criminal Judicature**

**Magistrate Dr. Joseph Mifsud LL.D.**

**The Police**  
**(Inspector Daryl Borg)**  
**vs**  
**Geraldine Myra Noel**

**Today 24<sup>th</sup> January 2020**

The Court,

Having seen the charges against Geraldine Myra Noel, daughter of Gerald and Moya nee Francis, born in England on the sixth (6<sup>th</sup>) of June of the year one thousand nine hundred and seventy-four (1974) holder of Maltese Identity Card number 61462 (A) charged with having on the 15<sup>th</sup> September 2016 and on the days, weeks and months before this date at the Malta Arbitration Centre, Valletta and on these islands:

1. Prepared or knowingly produced a false document in a civil proceeding in breach of Article 103 of Chapter 9 of the Laws of Malta;
2. Also for making a false affidavit in Malta, knowing that such affidavit was required for a civil proceedings in breach of Article 106 (3) of Chapter 9 of the Laws of Malta;
3. Also for taking a false oath before a judge, magistrate or any other officer authorized by law to administer oaths in breach of Article 108 of Chapter 9 of the Laws of Malta.

Having seen the documents exhibited and all acts of the Case;

Having seen the report filed and confirmed on oath by legal expert Dr Marycien Vassallo;

Having seen the note of submissions filed by Carmel Attard;

Having seen the note of submissions filed by the defence;

Having seen the court minute of the 15th October 2019 wherein the case was adjourned for judgement for today.

Considers:

### **The First Charge (Article 103 of Chapter 9)**

A reading of article 103 shows that this article is attributing criminal responsibility to a person who causes a false document to be prepared or knowingly produces a false document. The Court has gone through the evidence which was presented before the legal expert and it is clear that at no point was it alleged that the accused produced a document which was in itself false. Indeed all the evidence which was put forward was only intended to show that the claims put forward under oath by the accused were completely false. Therefore the facts of this particular case do not fall within the parameters of this particular article of the Criminal Code. Hence no finding of guilt can result.

### **The Second and Third Charges (Articles 106(3) and 108(1) of Chapter 9)**

In so far as these charges are concerned, one of the main requisites for a finding of guilt is the existence of a sworn declaration. As pointed out by the legal expert as well as the defence in its note of submissions, the original sworn declaration or at least an authenticated copy of the same sworn declaration filed by the accused during the arbitration proceedings was not presented. In criminal proceedings, the prosecution is under an obligation to satisfy the best possible evidence rule to secure a conviction. In failing to file the original sworn declaration or at least an authenticated copy of the same, the prosecution fell short of its obligations which are inherent to criminal proceedings: namely of bringing forward proof which satisfies the beyond reasonable doubt threshold. The Prosecution could have easily honoured this simple obligation by summoning a

representative from the Malta Arbitration Centre to file an authenticated copy of the whole arbitration proceedings. However, this was not done. Consequently, in view of this major procedural flaw, the Court is forced to acquit the accused in view of insufficient evidence.

### **DECIDE**

Therefore for the reasons expounded earlier on the Court does not find the accused guilty of all the charges brought against her and consequently acquits her from all charges.

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**Dr. Joseph Mifsud**  
**Magistrate**

Margaret De Battista  
Deputy Registrar