



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

**MAGISTRATE DR. NOEL BARTOLO
B.A., M.A. (Fin. Serv.), LL.D.**

TODAY 22nd APRIL, 2022

The Police

vs.

**Roberta De Lisi
ID No: 0175585A**

The Court,

Having seen the charges brought against the accused **Roberta De Lisi**, Born in Italy, D/O/B 08/05/1992, daughter of Emanuel De Lisi and Paola nee' Castelli ID No 0175585A, Residing at 1, Green Acres, Triq tal-Franciz, Swieqi charged with having on the 28th November, 2020 at around 15.05hrs at Dolci Peccati, Tigne Shopping Mall, Level 0, Il-Ponta ta' Tigne, Sliema, failed to comply with the directions (Standards for operations on the principles of social distancing, enhanced hygienic practices and minimised infection risks in Malta's Tourism Infrastructure) issued on the 24th August, 2020 by the Superintendent of Public Health applicable for the above-mentioned establishment and which are appropriate for the control of an outbreak under Chapter 465 – Public Health Act, which directions were issued to combat Covid-19.

The Court is requested to award punishment as it deems fit for non-compliance.

Having heard the witnesses produced during the sitting of the 20th April 2022;

Having seen the documents submitted in particular Dok TS 1;

Having heard final submissions by the prosecution and the defence;

Having considered:

The accused has been charged with failing to comply with the Standards for operations on the principles of social distancing, enhanced hygienic practices and minimised infection risks in Malta's Tourism Infrastructure in that a proper distance between tables was not met at Dolci Peccati, Tigne Shopping Mall, Level 0, Tigne, Sliema.

The prosecution produced two witnesses, namely **Tony Sammut** and **Joseph Camilleri**. Sammut explained that on the 28th November 2020 at around 03:56 in the afternoon an inspection was carried out at Dolci Pecati Tigne Point shopping complex Tigne, Sliema by himself and Joseph Camilleri and during the inspection the accused was identified as the duty manager or person responsible. The inspection was regarding the Covid-19 measures in place at that time and they measured three tables, which they found the distance between them was not according to the standards. The measurement was taken by feet.

Under cross-examination Sammut explained that the measurement was taken by his walk namely one foot in front of the other and that they did not use a measuring tape whilst the distance meters arrived at the department only after the inspection.

Joseph Camilleri's evidence is on the same lines as that of Sammut. Accused did not testify.

During his final oral submissions, learned counsel for the accused submitted that the accused ought to be acquitted due to the fact that the prosecution had failed to produce the requisite level of proof in order to secure its case in that whilst taking the measurement by foot might lead to a suspicion of breach it certainly did not afford that level of proof that is required in criminal proceedings where the prosecution has to prove its case beyond a reasonable doubt.

Having considered:

It is a fundamental principle in criminal proceedings that the Prosecution has to prove the charges brought against the accused beyond a reasonable doubt. The Court considers that in this case the prosecution has failed to produce such level of proof as required by law, in that the tool used by the health officials for measuring the distance – namely by foot – does not afford the requisite legal certainty such as a measuring tape or a distance meter would. Moreover the method of measuring the distance itself, as explained by the health official, namely that of calculating the distance from one table to another is flawed in that according to the *Standards for operations on the principles of social distancing*,

enhanced hygienic practices and minimised infection risks in Malta's Tourism Infrastructure it is “the distance from the front of one chair to the front of the chair behind” and the “back to back distance between chairs” – which have to be 3m and 2m apart respectively – that ought to be measured.

To this end the Court considers that the prosecution has not proved its case according to law.

Decide:

Consequently, the Court, in view of the above, due to lack of sufficient evidence at law, does not find the accused **Roberta De Lisi** guilty of the charges brought against her and hence acquits her from all charges.

Dr. Noel Bartolo
Magistrate

Mario Spiteri
Deputy Registrar