



**IN THE COURTS OF MAGISTRATES (MALTA)  
AS A COURT OF CRIMINAL JUDICATURE**

**Magistrate Dr. Monica Vella LL.D., M.Jur**

**Case Number 4583/2022**

**The Police**

**[Inspector Karl Roberts]**

**vs.**

**Mary Esi Mawuli (A 12278003)**

**Today the 20<sup>th</sup> September 2022,**

The Court,

After having seen the charges brought against the accused:

**“Mary Esi Mawuli, holder of Nigerian Passport number A 12278003;**

And I charge her that on the 3<sup>rd</sup> July 2022 and/or in the days, weeks or months before this date in these islands:

1. That she forged, altered or made any change in a passport or used or had a passport of which she knew that he had been falsified nor altered (Chapter 61 Sec 5);
2. And more so because during the same time, place and circumstances, she falsified or knowingly used a forged document (Chapter 9 Sec 32(1c));<sup>1</sup>
3. And further for having, during the same time, place and circumstances, given a false statement, or false information to the Principal Immigration Officer (Chapter 217, Sec 32 (1c));
4. And more so because during the same time, place and circumstances, she forged a document or a true copy of a document (Chapter 217, Sec 32 (1d));
5. And more so because during the same time, place and circumstances, without a legitimate authority, she used or held any document required for the purposes of the Immigration Act (Chapter 217 Sec 32 (1f)).

The Court was kindly requested to order in case of guilt the accused to pay costs relating to the appointment of experts or architects in the proceedings as contemplated in Article 533 of Chapter 9 of the Laws of Malta.”

Having heard and examined all documents forming part of the proceedings.

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<sup>1</sup> The Court notes that this second charge falls under Article 189 of Chapter 9 and not Article 31 (1c) of Chapter 9. As a matter of fact, Article 31 (1c) does not exist under Chapter 9.

Having heard all the evidence brought forward.

Having heard the submissions of the parties.

Having seen that the case has been put off for today for judgement.

### **Considered:**

### **The Facts of the Case**

This case relates to the use by the accused of an allegedly counterfeit Italian Identity Card.

### **Evidence**

**Inspector Karl Roberts** testified<sup>2</sup> whereby he explained that “*on the 3rd of July at the airport the immigration police performed an intra schengen check on flight number FR 1723, the flight was destined to Naples and they detected a passenger who in her possession a complete counterfeit Italian Identity card. The person was arrested, the card was checked and I am presenting the confiscation form that we did at the airport. She was given her rights, she was investigated and admitted that the ID card was false. However she never told that she bought identity card from the competent authorities.....At the airport all our officers are document experts and he can identify whether an ID card is counterfeit or not. And if you see the ID card it is literally a very bad copy of an ID card. Sometimes counterfeit ID card are quite good, this one is a really bad copy.....She had a Nigerian passport. A Nigerian passport does not suffice to travel from Malta to Italy. She has to present either a residence permit issued by a*

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<sup>2</sup> A folio 26 of the proceedings

*member state or an ID card. The ID card is the supporting document that allows her to travel intra schengen from one schengen state to another. Just the Nigerian passport is not enough. So she presented the Nigerian passport and the ID card and if I am not mistaken she presented to a residence permit. The ID card was counterfeit .....These are the two travelling documents, Nigerian passport number 12278003 and the ID card number CA 51947 PL, just these two documents. This is counterfeit and this is not.”*

Court expert **Mr John Charles Ellul** testified<sup>3</sup> whereby he explained that: “...*The document is an Italian ID card and from the visual inspection it conforms to the size and the standards that are required for this type of document. But when examined against the specifications that are requested on the legal documents that guide the manufactures and issuing for this type of document it transpires that this is a complete counterfeit. I came to the conclusion that this is a complete counterfeit from various aspects related to the forensic examination of the card, basically what we call pre press and after press, pre press is a process of manufacturing so the document does not conform when genuine authentic document is to be poly carbonate card, in this case is PVC a very cheap material which is commercially available under the security aspect for the production of such documents. And the printing methods and the personalisation do not conform to the requisite established in the standards for this type of documents. So the printing in this case is thermal printing where as in a genuine document it would be high security of sett printing material. And the personalisation is also thermal printing where as in a genuine document this would be engraving, so the laser penetrates the specific layer of the document and there is no ink involved in that process, so this is absent in this card. Based on these conclusions I have detailed all this and referenced*

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<sup>3</sup> A folio 44 of the proceedings.

*the material I have used the PRADO which is the public registry for authentication documents which is a European website which is dedicated specifically for the cross referencing of identity documents and any other documents which requires the proof of identification. So based on the conclusions and based on these examinations apart from many other features which are documented in the report the absence of UV security features, the absence of micro techs, the absence of the holographic details that are expected in one of the layers of the laminate when we put all these together obviously this is a complete counterfeit. I am returning the document with the original report and with the permission of the Court I will pass a copy to both defence and the prosecution in this case.”*

He presented his report, Document JCE<sup>4</sup>.

The **accused** took the witness stand on the 06<sup>th</sup> September 2022<sup>5</sup>, whereby she recounts her version of how she came about to be in possession of the said document: “.....*First I want to say that I am sorry for what happened. This document I didn't know it was fake document, because if I knew it was a fake document I am a Christian and they teach me not to lie from my child. I would tell my... that this document is fake. I did not know. So now I admit that this document is fake, my lord I am sorry I did not know that this document is fake. And I came with this document from Italy and I have been using it I think since 2021 in April. In the first weeks of April I went to possess this document and I was having different karta ta' l-identita. Then one day I.... then I take to my common, and when I was in my common I meet some people who walk there, some black boys who walk there and they ask me madam what do you want and I told them that I want to do my karta ta'*

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<sup>4</sup> A folio 46 of the proceedings.

<sup>5</sup> A folio 63 of the proceedings.

*identita and they said give me. I asked them how much and they said twenty nine euro and fifty cents, and then I give it to them. When I gave it to them they took my number and they called me one day to tell me the document is ready, but I did not know that this fake document they did for me. Now I know because you don't know me, the Inspector doesn't know me, people that arrested me they did not know me. They cannot draw me like this because I did not commit crime since I came to Malta. They do not draw me like this, I had to dig on this document. I began calling Italy day by day by day by day. Then there was one that told me that there is problem in this document and I asked what is that. They tell me those boys who walk in common they are not reaster, they just come in the common and ask what do you want to do, give me money and they do it for me..”.*

No further evidence was produced.

**Considered:**

That from the evidence brought forward by the Prosecution there is no doubt that the document which the accused was using when she tried to travel to Naples, Italy is counterfeit.

The Court therefore, has now to examine whether the accused knew that she was travelling with a counterfeit document and this to establish the *mens rea* of the accused.

The accused gave her version of how she had acquired the said document. She claims that she had acquired the same document from official sources, specifically from the Commune in Naples, where she declares to be officially resident for the last fifteen years. She however, produced no further evidence to substantiate her claim, or at least to

proof that she legally resides in Italy, apart from explaining that she only got to know that the document was counterfeit after being apprehended by the immigration police and being charged with these proceedings.

**Considered:**

The Court, therefore, has to examine these two diametrically opposed versions and decide which is the most plausible and truthful one in the light of the evidence brought before the Court, and this in the light of the principle applicable in criminal proceedings of proof beyond reasonable doubt.

The Court after having heard and examined all the evidence, is convinced that the accused knew from the start that she was travelling with a false document and this due also to the very cheap copy of the same.

The Court, moreover, cannot be expected to believe the version put forward by the accused that as a matter of fact she acquired the said false document from the Commune or Municipality Office of the area where she declares to be resident in Italy, especially also in view of the fact that she provided no proof to substantiate such allegation. She did not even state which Commune it is, and in which village or city or province she allegedly lives in Italy.

The Court, has no doubt, that if it were true that imposters run in the Municipality building to prey on genuine innocent persons to take payment and provide them with false counterfeit documents, the Municipality would act to make sure no such persons use its building to commit such crimes. The Court therefore, has no doubt that the

accused did not acquire the said document from the Municipality building, that is from an official source, but acquired it elsewhere and therefore knew from the start that she was travelling with a counterfeit document.

**Considered:**

The interpretation section of Chapter 217 Article 2 defines the word passport as:

*a passport referring to the person who is required to produce the same, furnished with a photograph of such person, which is valid on the date on which the same person seeks entry into Malta and is not due to expire before the proposed date of departure of the same person from Malta, and includes any other similar document establishing the identity and nationality of the person to whom it refers to the satisfaction of the Principal Immigration Officer.*

Therefore the word passport also includes any identification document such as the identification document presented by the accused.

The Court, therefore, finds that the Prosecution has proved its case against the accused beyond reasonable doubt and therefore finds the accused guilty of the charges brought against her.

**Decides:**

Therefore, the Court, after having seen and considered Sections 5 of Chapter 61 of the Laws of Malta and Section 189 of Chapter 9 of the Laws of Malta and Section 32(1) (c), (d) and (f) of Chapter 217 of the Laws of Malta, the Court finds the accused guilty of all the charges



brought against her and condemns the accused to a term of eight (8) months effective imprisonment.

***Magistrate Dr. Monica Vella LL.D, M. Jur.***

Angelo Buttigieg

Deputy Registrar