



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

MAGISTRATE DR ELAINE RIZZO LL.D

POLICE

(Police Inspector Brian Xuereb)

against

MATTHEW ROBERT GIBSON

Case No.: 250/22

Today, 3rd October 2023

The Court,

After having seen the charges brought against the accused, Matthew Robert Gibson, son of Ian and Ann nee' Taylor, holder of British Passport number 526008428, born in Ilkeston, UK, on the 17th May 1984, residing at 382, Rue

D'Argens, Gzira, by virtue of which he is being charged for having on the 5th May 2022, at around 21:00hrs, in Church Street, St. Julian's, Malta:

1. Been in 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, which drug was found under circumstances denoting that it was not intended for his personal use;
2. Produced, sold or otherwise dealt with the whole or any portion of the plant cannabis in terms of section 8 (e) of the Chapter 101 of the Laws of Malta;
3. Committed such offences within 100 metres of the perimeter of a school, youth club or centre or such other place where young people habitually meet in terms of article 22(2) of Cap. 101 of the Laws of Malta.

The Court was further requested to apply article 533(1) of Chapter 9 of the Laws of Malta in connection with the expenses incurred by the Court appointed experts.

Having seen the Order of the Attorney General issued on 6th May 2022 in terms of article 22(2) of the Dangerous Drugs Ordinance (Cap. 101 of the Laws of Malta) for this case to be tried summarily by this Court sitting as a Court of Criminal Judicature;

Having seen that in the sitting of the 19th May 2022, the defence asked this Court to assume the functions of a Drug Court in terms of article 8 of Cap. 537 of the Laws of Malta;

Having seen that the above-mentioned request in terms of article 8 of Cap. 537 of the Laws of Malta was withdrawn by the defence counsel in the sitting of 13th February 2023;

The prosecution rested its case on 14th July 2022 whilst the defence rested its case on 13th February 2023;

Having heard all the evidence brought forward and the submissions made by the parties;

Having seen all the documentary evidence and the full acts of proceedings;

Considers:

Whereas in brief the relevant facts of the case are the following:

PC1461 Alfred Bray testified that on 5th May 2022 at about 9pm he together with PC 204 were patrolling the area next to Spinola Gardens in St. Julians, when they noticed four persons who were acting suspiciously. Bray also explained that he noticed one of these four persons reaching down for his bag, opening it, pulling out a black pouch, handed something to another man whilst this same other man handed him back a bank note of Eur. 20. This person who was observed pulling out the black pouch was stopped by the police and identified as the accused person – Matthew Robert Gibson.

A search was done in the bag he was carrying and also the black pouch therein. From this search the police found in the same black pouch small bags containing green substance. In the same bag the police also found a steel container containing some white substance and several small empty plastic sachets. The accused was arrested and taken to the police station for further investigations.

During these investigations the accused was interrogated however he refused to answer all the questions put forward by the investigator (as he had the right to do). Following that the accused was arraigned in Court charged with the aforementioned offences.

The substances seized by the police from the accused were exhibited in the acts of proceedings on 19th May 2022¹. However the prosecution did not ask the court to appoint an expert in terms of article 650 of the Criminal Code so that the same

¹ Fol. 24 of the acts of proceedings.

substance seized and exhibited could be analysed so as to determine whether it is a scheduled substance in terms of Cap. 101 of the Laws of Malta or otherwise.

Without this crucial piece of evidence this Court can never be morally convinced that the substances found in possession of the accused and the substance which he had allegedly trafficked was a prohibited substance in terms of Cap. 101 of the Laws of Malta. Hence, this Court has no other option but to acquit the accused from all the charges brought against him.

The Court solicits the prosecution to show more attention when prosecuting such cases so as to ensure that crucial and basic evidence such as the one missing in this case are not omitted when the prosecutor is presenting his case before the Court.

Decide

Hence for the aforementioned reasons, this Court is hereby find the accused, Matthew Robert Gibson, not guilty of all the charges proffered against him and consequently is acquitting him therefrom.

Dr Elaine Rizzo
Magistrate

Christine Farrugia
Deputy Registrar