



CRIMINAL COURT

**HON. MR. JUSTICE
JOSEPH GALEA DEBONO**

Sitting of the 4th April, 2005

Number 5/2005

The Republic of Malta
Vs
Rahman Abdirahman Ibrahim

The Court,

Having seen the bill of indictment no. 5/2005 against the accused Rahman Abdirahman Ibrahim wherein she was charged with:

1) After the Attorney General premised in the First Count of the Bill of Indictment that Rahman Abdirahman Ibrahim, whilst in Turkey in the months of October and November, 2003, met Saber Mohtar and told him that she was looking for some work to earn some money. This Sader Mohtar told her that he, together with others, had an illegal business in drugs between Malta and Turkey and that she could earn a considerable amount of money if

she would take the drugs from Turkey into Malta illegally. She accepted the offer and she planned and agreed that Sader Mohtar would make the necessary arrangements as regards entry visa and pay the travel expenses. Besides, he told her what to do for the delivery of the drugs and payment in Malta including her fee of \$4000. Her association both in Turkey and in Malta, with these drug dealers led her to illegally import into Malta almost five hundred and ten grams of heroin which she carried inside her body on the 17th November, 2003. Fortunately this association was disrupted when the Police caught her importing the said heroin on her arrival in Malta from Istanbul on flight KM 785 on the same day.

By committing the abovementioned acts with criminal intent, Rahman Abdirahman Ibrahim rendered herself guilty of conspiracy to trafficking in dangerous drugs in breach of the provisions of the Dangerous Drugs Ordinance.

Wherefore, the Attorney General, in his aforesaid capacity, accused Rahman Abdirahman Ibrahim of being guilty of having, with another one or more persons in Malta, and outside Malta, conspired for the purpose of committing an offence in violation of the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), and specifically of importing and dealing in any manner in heroin, and of having promoted, constituted, organized and financed such conspiracy.

Demanded that the accused be proceeded with according to law, and that she be sentenced to the punishment of imprisonment for life and to a fine of not less than one thousand Maltese Liri (LM1000), and of not more than fifty thousand Maltese Liri (LM50,000), and the forfeiture in favour of the Government of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in section 9, 10(1), 12, 14(1)(5), 15A, 20, 22(1)(a)(f)(1A)(1B)(2)(a)(i)(3A)(c)(d), 22(f) and 26 of the Dangerous Drugs Ordinance (Chap. 101) and in sections 23 and 533 of the Criminal Code, including the issue of a

Removal Order with respect to accused in terms of sections 5(2)(b) and 15 of the Immigration Act, or to any other punishment applicable according to law to the declaration of guilty of the accused.

2) After the Attorney General premised in the Second Count of the Bill of Indictment that in pursuance and execution of the association and conspiracy alleged under the first count, Rahman Abdirahman Ibrahim was given 41 capsules container 509.588 grams of heroin which she hid in her stomach and private parts prior to her departure to Malta from Istanbul on the 17th November, 2003. In fact, on that date the said heroin was imported into Malta by accused illegally. The Police became suspicious of accused on her arrival and managed to stop delivery of the drug to her associates in Malta.

Heroin is a dangerous drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance. Rahman Abdirahman Ibrahim was not in possession of any valid and subsisting import authorization granted in pursuance of said law.

By committing the abovementioned acts with criminal intent, Rahman Abdirahman Ibrahim rendered herself guilty of the importation of a dangerous drug into Malta.

Wherefore, the Attorney General, in his aforesaid capacity, accused Rahman Abdirahman Ibrahim of being guilty of meaning to bring or causing to be brought into Malta in any manner whatsoever a dangerous drug (heroin), being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance, when she was not in possession of any valid and subsisting import authorization granted in pursuance of said law.

Demanded that the accused be proceeded with according to law, and that she be sentenced to the punishment of imprisonment for life and to a fine of not less than one thousand Maltese Liri (LM1000), and of not more than fifty thousand Maltese Liri (LM50,000), and the forfeiture in

favour of the Government of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in section 10, 12, 14, 15A, 22(1)(a)(1B)(2)(a)(l)(3A)(d) and 26 of the Dangerous Drugs Ordinance (Chap. 101) and in sections 23, 17(b) and 533 of the Criminal Code, including the issue of a Removal Order with respect to accused in terms of sections 5(2)(b) and 15 of the Immigration Act, or to any other punishment applicable according to law to the declaration of guilty of the accused.

3) After the Attorney General premised in the Third Count of the Bill of Indictment that having imported on the 17th November, 2003 into Malta the dangerous drug heroin in breach of the provisions of Chapter 101 of the Laws of Malta, as described under the second count, Rahman Abdirahman Ibrahim, consequent of the suspicions which her behaviour raised in Police Officials, was physically and personally searched and X-Rayed and 41 capsules containing almost five hundred and ten grams of heroin were found on her person. This amount of drug heroin could fetch in Malta more than thirteen thousand pounds.

Heroin is a dangerous drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance. Rahman Abdirahman Ibrahim was not in possession of any valid and subsisting import or possession authorization granted in pursuance of said law.

By committing the abovementioned acts with criminal intent, Rahman Abdirahman Ibrahim rendered herself guilty of the offence of possession of a dangerous drug (heroin) with intent to supply.

Wherefore, the Attorney General, in his aforesaid capacity, accused Rahman Abdirahman Ibrahim of being guilty of knowingly having been in possession of a dangerous drug (heroin) specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance, when not in possession of any valid and

subsisting import or possession authorization granted in pursuance of said law; so, however, that such offence was under such circumstances that indicated that such possession was not for the exclusive use of the offender.

Demanded that the accused be proceeded with according to law, and that she be sentenced to the punishment of imprisonment for life and to a fine of not less than one thousand Maltese Liri (LM1000), and of not more than fifty thousand Maltese Lire (LM50,000), and the forfeiture in favour of the Government of the entire immovable and movable property in which the offence took place as described in the bill of indictment, as is stipulated and laid down in section 9, 10(1), 12, 14(1)(5), 20, 22(1)(a)(2)(a)(i)(ii), 22(2)(b)(i) and 26 of the Dangerous Drugs Ordinance (Chap. 101) and Regulation 8 of the 1939 Regulations for the Internal Control of Dangerous Drugs (Legal Notice 292/39), and in sections 23, 17(b) and 533 of the Criminal Code, including the issue of a Removal Order with respect to accused in terms of sections 5(2)(b) and 15 of the Immigration Act, or to any other punishment applicable according to law to the declaration of guilty of the accused.

Having seen the minute whereby the accused declared that she was renouncing to any time limit in her favour and that she had no objection to her case being heard and decided today;

Having seen the joint application of the Attorney General and the accused dated 28th March, 2005 filed in terms of Section 453A of the Criminal Code and the relative decree of this Court dated 29th March, 2005;

Having seen the joint application filed by the Attorney General and the accused of today's date, whereby in terms of Section 453A(1)(2) of the Criminal Code, they submitted that, in the eventuality of the accused pleading guilty to the counts of the bill of indictment, the

punishment which should be imposed upon her should be that of imprisonment for a period of ten (10) years and a fine (multa) of ten thousand Maltese Liri (LM10,000) apart from other sanctions and consequences which are mandatory upon conviction in terms of the provisions of Chapter 101 of the Laws of Malta, and whereby they requested that this Court should sentence the accused to said punishment;

Having seen its decree of today's date wherein this Court, in view of the fact that it considered the combination of sanctions and measures agreed upon as satisfactory, declared that in the event of a plea of guilty, the Court was prepared to accede to the request;

Having seen that in today's sitting, after the legal consequences of her request were duly explained to her in simple language, the accused, in reply to the question as to whether she was guilty or not guilty of the charges preferred against her under the three counts of the Bill of Indictment, stated that she was pleading guilty thereto;

Having seen that this Court then warned the accused in the most solemn manner of the legal consequences of such statement and allowed her a short time to retract it, according to Section 453 (Chap. 9);

Having seen that the accused, being granted such a time, persisted in her statement of admission of guilt;

Declares the accused, namely Rahman Abdirahman Ibrahim guilty of the three counts in the Bill of Indictment, namely of:

1. Having in the months of October and November, 2003 with another one or more persons in Malta and outside Malta, conspired for the purpose of committing an offence in violation of the provisions of the Dangerous Drugs Ordinance (Chap. 101 of the Laws of Malta), and specifically of importing and dealing in any manner in heroin, and of having promoted, constituted, organized and financed such

conspiracy as stated in the first count of the Bill of Indictment;

2. On her arrival in Malta from Istanbul on the 17th November, 2003, meaning to bring or causing to be brought into Malta in any manner whatsoever a dangerous drug (heroin), being a drug specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance, when she was not in possession of any valid and subsisting import authorization granted in pursuance of said law as stated in the second count of the Bill of Indictment;

3. On the 17th November, 2003, knowingly having been in possession of a dangerous drug (heroin) specified and controlled under the provisions of Part I, First Schedule, of the Dangerous Drugs Ordinance, when not in possession of any valid and subsisting import or possession authorization granted in pursuance of said law; so however, that such offence was under such circumstances that such possession was not for the exclusive use of the offender.

Having considered that the first and second counts of the Bill of Indictment are, for purposes of punishment, to be considered as having served as a means for the commission of the offence under the third count of the Bill of Indictment, according to Section 17 (h) of Chapter 9 of the Laws of Malta (vide “Ir-Repubblika ta’ Malta vs. Mansour Muftah Nagem” [30.10.2002] ; “Ir-Repubblika ta’ Malta vs. Ahmed Esawi Mohamed Fakri” [16.12.2003] and others).

Having considered that in the light of accused’s clean criminal record in Malta and in the light of sentences passed by this Court and upheld by the Court of Criminal Appeal, in similar cases where the amount of drugs imported into Malta was in the same range of that imported in this case, the combination of sanctions and measures requested by the Prosecution and the convicted person were such as to be adequate and in line with such judgements, upholds said request and after having seen Sections 9, 10,10(1),12,14,14(1)(5), 15A, 20, 22 (1)(a)(f)(1A)(1B)(2)(a)(i)(ii)(3A)(c)(d), and 26 of the

Dangerous Drugs Ordinance (Chap.101); and Regulation 8 of the 1939 Regulations for the Internal Control of Dangerous Drugs (Legal Notice 292/39) and Sections 17(h), 23, 453A and 533 of the Criminal Code, as well as sections 5(2)(b) and 15 of the Immigration Act;

Condemns said Rahman Abdirahman Ibrahim to a term of imprisonment of ten (10) years and to a fine *multa* of ten thousand Maltese Liri (LM 10,000), and, if this fine is not paid within fifteen (15) days from today, orders that such fine is to be automatically converted into a further period of twelve (12) months imprisonment according to law and further orders that she pays the sum of two hundred and twenty Maltese Liri and nineteen cents (LM220.19c), being the total court expenses incurred in this case, according to Section 533 of Chapter 9 of the Laws of Malta within fifteen (15) days from today ;

Furthermore orders that all objects related to the offences and all monies and other moveable and immovable property pertaining to said person convicted should be confiscated in favour of the Government of Malta;

Furthermore the Court is issuing a Removal Order against the person convicted and orders that she is to be deported from these Islands in terms of Sections 5 (2) (b) and 15 of the Immigration Act, as soon as she has served her term of imprisonment and paid the said fine or else served the further term of imprisonment, should such fine be converted into a further term of imprisonment;

Finally the Court orders the destruction of all drugs under the direct supervision of the Deputy Registrar of this Court duly assisted by Court Expert Mario Mifsud, unless the Attorney General informs this Court within fifteen days from today that said drugs are to be preserved for the purposes of other criminal proceedings against third parties and, for this purpose, the Deputy Registrar should enter a minute

Informal Copy of Judgement

**in the records of this case reporting to this Court the
destruction of said drugs.**

< Final Judgement >

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