



MALTA

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

**MAGISTRATE DR.
ABIGAIL LOFARO**

Sitting of the 14 th July, 2006

Number. 341/2006

The Police
(Inspector Joseph Mercieca)
(Inspector Alfred Mallia)
vs

Krishanu Bhattacharjee

The Court;

Having seen the charges brought against the above mentioned defendant charged with having on the 31st March, 2006, at about 6.30 p.m., in the Santa Marija ta' Gesu Church, known as Ta' Giesu Church, in Triq San Gwann, Valletta :

(a) wilfully, or through negligence, unskillfulness or non observance of regulations, causes damage to or destroyed cultural property whether or not such cultural property has been registered in any inventory in

accordance with the Cultural Heritage Act, Chapter 445 of the Laws of Malta;

(b) wilfully committed spoil, damage and / or injury to or upon any movable or immovable property, which damage exceed the amount of five hundred Maltese Liri, to the detriment of the Franciscan Community, in terms of Article 325(a) of Chapter 9;

(c) publicly vilified the Roman Catholic Apostolic Religion, which is the religion of Malta, by means of gestures and / or words, and / or offended the same religion by vilifying those who profess such religion and its ministers, and / or anything which forms the object of, or is consecrated to, or is necessarily destined for Roman Catholic worship, in terms of Article 163 of Chapter 9;

(d) impeded and / or disturbed the performance of any function, ceremony or religious service of the Roman Catholic Apostolic Religion or of any other religion tolerated by law, which was being carried out with the assistance of a minister of religion in any place of worship or in any public place or place open to the public, in terms of Article 165 (1) of Chapter 9;

(e) disturbed the public good order and / or the public peace (Article 338 (dd) of Chapter 9);

Having heard all the witnesses produced;

Having seen all the documents which were exhibited and having heard all the evidence which was produced;

Having seen the degree of the 13th April 2006 whereby the Court nominated Dr Anton Grech, Dr Joseph Vella Baldacchino and Dr Joseph Spiteri in order to investigate the state of mind of accused, with special reference to the time when the alleged crime was committed and to further examine whether the accused has the capability understanding the nature of these proceedings and whether he can stand in judgement.

Having seen the psychiatric report and evaluation of defendant presented to the Court by Dr Anton Grech, Dr Joseph Vella Baldacchino and Dr Joseph Spiteri and particularly the general conclusion whereby the Court

experts came to the conclusion that “defendant is a young male who suffered an acute psychotic episode with frank schizophrenic symptoms. This has made him react in a way that he needed to leave the United Kingdom and subsequently go to Ireland and later to Malta where he later reacted to his psychotic delusions. He was subsequently admitted to a Forensic Unit where he was assessed and given appropriate treatment with good effect that helped him gain insight into his problems. He would benefit by being repatriated to this country where he would be supported by his local psychiatrist and family”. The experts concluded that “at the time of the alleged crime defendant did not have any insight into his mental illness and he was under the direct influence of his psychotic delusions. In view of his psychotic episode he did not have control over his wishes and intentions” (folio 70 of these acts).

Having seen the Attorney General’s note of the 4th of July, 2006 whereby the Attorney General prayed that this Court, under the provisions of section 405 of the Criminal Code, since the Attorney General agreed to the opinion of the Court Expert (as stated at fol 64) that accused was insane at the time of the commission of the offences asked the Court to proceed in terms of sections 402 (4) and 623 of the Criminal Code;

Having seen sections 33, 402 and 623 of Chapter 9 of the Laws of Malta declares that defendant is exempt from criminal responsibility since at the time of the act he was in a state of insanity in terms of section 33 of Chapter 9 and therefore the Court orders that the record of the Inquiry be transmitted to the Attorney General within the term prescribed in Section 401 (3) of Chapter 9 and orders that accused be kept in custody in Mount Carmel Hospital there to remain in custody and detained according to the provisions of part 1V of the Mental Health Act.

< Final Judgement >

Informal Copy of Judgement

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