



CRIMINAL COURT

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

Sitting of the 11 th January, 2010

Number 44/2009

**The Republic of Malta
Vs
Victor Odaro Izevbigie**

The Court,

Having seen the bill of indictment no. 44/2009 against the accused Victor Odaro Izevbigie wherein he was charged with:

- 1) After the Attorney General premised in the First Count of the Bill of Indictment that
on the ninth (9th) day of October of the year two thousand and eight (2008) and during the previous weeks and months, VICTOR ODARO IZEVBIGIE decided to start dealing, offering, supplying and exporting drugs illegally into the Maltese Islands in agreement with others.

In fact on the dates abovementioned, the accused VICTOR ODARO IZEVBIGIE conspired and agreed with other persons, namely a certain Justin and others, to illegally deal in and export from Spain to the Maltese Islands a quantity of the drug cocaine (215.57 grams of the drug cocaine), and agreed also about the route (Valencia, Spain to Malta) and/or packing and/or means of concealment (body packing of capsules filled with the drug cocaine) and/or the means of transport (air travel) which was to be used in order for this quantity of the drug cocaine to be illegally brought and imported into Malta and this in order for the said drug to be eventually dealt with illegally within the Maltese Islands. VICTOR ODARO IZEVBIGIE agreed and planned with the said Justin, to eventually make contact with and meet in Malta the person who was to receive the said drug in Malta (a certain Christopher) for its eventual trafficking and distribution in the Maltese Islands. VICTOR ODARO IZEVBIGIE agreed to provide all the necessary assistance for this illegal activity to take place, which activity causes untold harm to Maltese society and an illegal financial gain to the accused, which financial gain was also at the basis of this conspiracy.

In execution of these pre-concerted plans, the said Justin bought an airline ticket to VICTOR ODARO IZEVBIGIE from Valencia, Spain to Malta in order for VICTOR ODARO IZEVBIGIE to transport this drug cocaine consignment from Valencia, Spain to Malta by air. Justin and VICTOR ODARO IZEVBIGIE met in an uncompleted building in Valencia and while there VICTOR ODARO IZEVBIGIE agreed to insert, and inserted fourteen capsules filled with the drug cocaine in his body (some through his mouth and some through his anus towards his rectum).

On the 9th October 2008, VICTOR ODARO IZEVBIGIE boarded the flight FR6436 leaving from Valencia, Spain destination Malta, carrying these fourteen capsules filled with the drug cocaine inside his body. On this date VICTOR ODARO IZEVBIGIE arrived in

the Maltese Islands carrying in his body these fourteen capsules containing the drug cocaine.

VICTOR ODARO IZEVBIGIE was not authorized to be in possession of or import such dangerous drugs in terms of Law.

However before VICTOR ODARO IZEVBIGIE managed to leave the Malta International Airport towards his destination in Malta he was intercepted by the Malta Police Force, who managed to intervene in due time before this amount of drug cocaine managed to reach its intended final destination in the Maltese Islands to the respective consignee of the said drug cocaine, a certain Christopher. The Police effected a search on the person of VICTOR ODARO IZEVBIGIE and invited him to submit himself to an x-ray of his abdomen at the Mater Dei Hospital. Following this examination, it transpired that VICTOR ODARO IZEVBIGIE was carrying inside his body fourteen capsules filled with circa 215.57 grams of the drug cocaine with its purity calculated at 31.7% (as determined later by the Court appointed expert). This consignment of the drug cocaine was the subject matter of the abovementioned conspiracy. The street value of this drug as determined by the Court appointed expert amounted to around sixteen thousand three hundred and eighty three Euro (€16,383).

The drug cocaine is scheduled as per Part 1 of the First Schedule of the Dangerous Drugs Ordinance;

By committing the abovementioned acts with criminal intent, VICTOR ODARO IZEVBIGIE rendered himself guilty of conspiracy to trafficking in dangerous drugs (cocaine) in breach of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta.

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accused VICTOR ODARO

IZEVBIGIE of being guilty of having, on the ninth (9th) day of October of the year two thousand and eight (2008) and during the previous weeks and months with criminal intent, with another one or more persons in Malta, or outside Malta, conspired for the purpose of selling or dealing in a drug (cocaine) in the Maltese Islands against the provisions of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta) or by promoting, constituting, organizing or financing such conspiracy, and demanded that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to a fine of not less than two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) but not exceeding one hundred and sixteen thousand four hundred and sixty-eight euro and sixty-seven cents (€116,468.67) and the forfeiture in favour of the Government of Malta 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 articles 2, 9, 10(1), 12, 22(1)(a)(f)(1A)(1B)(2)(a)(i)(3A)(a)(b)(c)(d)(7), 22(A), 24A, and 26 of the Dangerous Drugs Ordinance and of articles 17, 23, 23A, 23B, 23C and 533 of the Criminal Code 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 within and during the same context of place, time, facts and circumstances mentioned in the preceding count of this bill of indictment, that is to say on the ninth (9th) day of October of the year two thousand and eight (2008) and during the previous weeks and months, **VICTOR ODARO IZVBIGIE decided to export from Spain a quantity of the drug cocaine to be imported to the Maltese Islands.** While in Valencia, Spain VICTOR ODARO IZVBIGIE met and agreed with a certain Justin, about a deal aimed at this importation of the drug cocaine in the Maltese Islands which drug was then to be distributed and delivered to a certain Christopher,

who was resident in Malta, for its eventual trafficking in the Maltese Islands.

VICTOR ODARO IZEBBIGIE and the said Justin agreed that this drug cocaine consignment was to be transported from Valencia, Spain to Malta by air transport.

On the 9th October VICTOR ODARO IZEBBIGIE inserted these fourteen capsules filled with the drug cocaine in his body (some from his mouth and some from through his anus towards his rectum) and later boarded flight FR6436 leaving from Valencia, Spain destination Malta, carrying these fourteen capsules filled with the drug cocaine inside his body. On this date this flight arrived and landed in Malta. VICTOR ODARO IZEBBIGIE was not authorized to import such dangerous drugs in terms of Law. **VICTOR ODARO IZEBBIGIE therefore managed to knowingly and illegally import in the Maltese Islands fourteen capsules containing the drug cocaine.**

However before VICTOR ODARO IZEBBIGIE managed to leave the Malta International Airport towards his final destination in Malta, he was intercepted by the Malta Police Force, who managed to intervene in due time before this amount of drug cocaine managed to reach its intended final destination in the Maltese Islands that is the consignee of the said drug cocaine, a certain Christopher. The Police effected a search on the person of VICTOR ODARO IZEBBIGIE and invited him to submit himself to an x-ray of his abdomen at the Mater Dei Hospital. Following this examination, it transpired that VICTOR ODARO IZEBBIGIE was carrying inside his body fourteen capsules filled with circa 215.57 grams of the drug cocaine with its purity calculated at 31.7% (as determined later by the Court appointed expert). The street value of this drug as determined by experts amounted to around sixteen thousand three hundred and eighty three Euro (€16,383).

The drug cocaine is scheduled as per Part 1 of the First Schedule of the Dangerous Drugs Ordinance;

By committing the abovementioned acts with criminal intent, VICTOR ODARO IZEVBIGIE rendered himself guilty of importing or exporting, or cause to be imported or exported, or take any steps preparatory to importing or exporting, any dangerous drug (cocaine) into or from Malta in breach of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta.

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accused VICTOR ODARO IZEVBIGIE of being guilty of having, on the ninth (9th) day of October of the year two thousand and eight (2008), with criminal intent, imported or exported, or cause to be imported or exported, or taken any steps preparatory to importing or exporting, any dangerous drug (cocaine) into or from Malta in breach of the provisions of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and demanded that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to a fine of not less than two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) but not exceeding one hundred and sixteen thousand four hundred and sixty-eight euro and sixty-seven cents (€116,468.67) and the forfeiture in favour of the Government of Malta 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 articles 2, 9, 10(1), 12, 14, 15A, 22(1)(a)(1B)(2)(a)(i)(3A)(a)(b)(c)(d)(7), 22(A), 24A, and 26 of the Dangerous Drugs Ordinance and of articles 17, 23, 23A, 23B, 23C and 533 of the Criminal Code 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 within and during the same context of place, time, facts and circumstances mentioned in the preceding counts of this bill of indictment, that is to say on the ninth (9th) day of

October of the year two thousand and eight (2008) and during the previous weeks and months, VICTOR ODARO IZEVBIGIE agreed to export from Spain a quantity of the drug cocaine to be imported to the Maltese Islands. While in Valencia, Spain, VICTOR ODARO IZEVBIGIE met a certain Justin with who he agreed to transport on his person and inside his body a drug cocaine consignment from Valencia, Spain to Malta by air transport. VICTOR ODARO IZEVBIGIE inserted fourteen capsules filled with the drug cocaine in his body (some from his mouth, and some through his anus towards his rectum). On the 9th October 2008, VICTOR ODARO IZEVBIGIE boarded flight FR6436 leaving from Valencia, Spain destination Malta, carrying these fourteen capsules filled with the drug cocaine inside his body. **VICTOR ODARO IZEVBIGIE** was therefore knowingly and illegally in possession of fourteen capsules containing the drug cocaine while in the Maltese Islands which drug was found under circumstances denoting that it was not intended for his personal use.

However before VICTOR ODARO IZEVBIGIE managed to leave the Malta International Airport towards his final destination in Malta he was intercepted by the Malta Police Force, who managed to intervene in due time before this amount of drug cocaine managed to reach its intended final destination in the Maltese Islands to the respective consignee of the said drug cocaine, a certain Christopher. The Police effected a search on the person of VICTOR ODARO IZEVBIGIE and invited him to submit himself to an x-ray of his abdomen at the Mater Dei Hospital. Following this examination, it transpired that VICTOR ODARO IZEVBIGIE was carrying inside his body fourteen capsules filled with circa 215.57 grams of the drug cocaine with its purity calculated at 31.7% (as determined later by the Court appointed expert). The street value of this drug as determined by experts amounted to around sixteen thousand three hundred and eighty three Euro (€16,383). VICTOR ODARO IZEVBIGIE was not

authorized to be in possession of such dangerous drugs in terms of Law.

The drug cocaine is scheduled as per Part 1 of the First Schedule of the Dangerous Drugs Ordinance;

Consequently by committing the abovementioned acts with criminal intent, VICTOR ODARO IZEBIGIE rendered himself guilty of being in possession of a dangerous drug (cocaine) as specified in the First Schedule of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta when he was not in possession of an import or an export authorization issued by the Chief Government Medical Officer in pursuance of the provisions of paragraphs 4 and 6 of the Ordinance, and when he was not licensed or otherwise authorized to manufacture or supply the mentioned drugs, and was not otherwise licensed by the President of Malta or authorized by the Internal Control of Dangerous Drugs Regulations (G.N. 292/1939) to be in possession of the mentioned drugs, and failed to prove that the mentioned drugs were supplied to him for his personal use, according to a medical prescription as provided in the said regulations and this in breach of the 1939 Regulations of the Internal Control of Dangerous Drugs (G.N. 292/1939) as subsequently amended by the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and which drug was found under circumstances denoting that it was not intended for his personal use.

Wherefore, the Attorney General, in the name of the Republic of Malta, on the basis of the facts and circumstances narrated above, accused VICTOR ODARO IZEBIGIE of being guilty of having, with criminal intent, of being in possession of a dangerous drug (cocaine) as specified in the First Schedule of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta when he was not in possession of an import or an export authorization issued by the Chief Government Medical Officer in pursuance of the provisions of paragraphs 4 and 6 of the Ordinance, and when he was not licensed or otherwise authorized to

manufacture or supply the mentioned drugs, and was not otherwise licensed by the President of Malta or authorized by the Internal Control of Dangerous Drugs Regulations (G.N. 292/1939) to be in possession of the mentioned drugs, and failed to prove that the mentioned drugs were supplied to him for his personal use, according to a medical prescription as provided in the said regulations and this in breach of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) as subsequently amended by the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and which drug was found under circumstances denoting that it was not intended for his personal use, and demanded that the accused be proceeded against according to law, and that he be sentenced to the punishment of imprisonment for life and to a fine of not less than two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) but not exceeding one hundred and sixteen thousand four hundred and sixty-eight euro and sixty-seven cents (€116,468.67) and the forfeiture in favour of the Government of Malta 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 articles 2, 9, 10(1), 12, 22(1)(a)(2)(a)(i)(3A)(a)(b)(c)(d)(7), 22(A), 24A, and 26 of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and of regulations 2, 9 and 16 of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) and of articles 17, 23, 23A, 23B, 23C and 533 of the Criminal Code or to any other punishment applicable according to law to the declaration of guilty of the accused.

Having seen all the records of the case, including those of the compilation of evidence before the Court of Magistrates (Malta) as a Court of Criminal Inquiry;

Having seen the joint application filed by the Attorney General and the accused in the course of today's sitting, whereby, after declaring that in the event that the accused was filing a guilty plea to the charges brought forward in

his regard in the above referred to Bill of Indictment, requested that the punishment to be awarded should consist of a term of imprisonment of eight (8) years and the imposition of a fine of twenty thousand Euros (€20,000) together with the other sanctions and consequences that are prescribed by law for the above conviction in terms of the provisions of the Dangerous Drugs Ordinance Chapter 101 of the Laws of Malta, including the confiscation of any monies and movable and immovable properties of the accused.

Having seen that in today's sitting the accused, in reply to the question as to whether he was guilty or not guilty of the charges preferred against him under the three counts of the Bill of Indictment, stated that he 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 him a short time to retract it, according to Section 453 (Chap. 9);

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

Now therefore declares Victor Odaro Izevbigie guilty of all three counts in the Bill of Indictment, namely of having:-

1. on the 9th of October of the year 2008 and during the previous weeks and months, conspired to trafficking in the dangerous drug (cocaine) in breach of the provisions of the Dangerous Drug Ordinance Chapter 101 of the Laws of Malta, with another one or more persons in Malta or outside Malta for the purpose of selling or dealing in a drug (cocaine) in the Maltese Islands or by promoting constituting, organizing or financing such conspiracy and this according to the First Count of the Bill of Indictment;

2. on the 9th day of October 2008 imported or caused to be imported into Malta the dangerous drug cocaine in breach of the provisions of the Dangerous Drugs Ordinance Chapter 101 of the Laws of Malta and

this according to the Second Count of the Bill of Indictment;

3. on the 9th day of October, 2008 knowingly and illegally being in possession of 14 capsules containing 215.57 grams of the drug cocaine with its purity calculated at 31.7%, when he was not in possession a dangerous drug (cocaine) as specified in the First Schedule of the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta when he was not in possession of an import or an export authorization issued by the Chief Government Medical Officer in pursuance of the provisions of paragraphs 4 and 6 of the Ordinance, and when he was not licensed or otherwise authorized to manufacture or supply the mentioned drugs, and was not otherwise licensed by the President of Malta or authorized by the Internal Control of Dangerous Drugs Regulations (G.N. 292/1939) to be in possession of the mentioned drugs, and failed to prove that the mentioned drugs were supplied to him for his personal use, according to a medical prescription as provided in the said regulations and this in breach of the 1939 Regulations on the Internal Control of Dangerous Drugs (G.N. 292/1939) as subsequently amended by the Dangerous Drugs Ordinance, Chapter 101 of the Laws of Malta and which drug was found under circumstances denoting that it was not intended for his personal use, and this according to the Third Count of the Bill of Indictment.

Having considered all the circumstances of the case, this Court is satisfied that the combination of sanctions and measures requested by the prosecution and the accused are those which it would have been lawful for it to impose upon conviction for the offences to which the accused has pleaded guilty and that it does not have cause to order the trial of the cause to be proceeded with or to reject said request for any other reason.

Having considered the guilty plea of the accused after the Court explained to him in clear terms the consequences of his request, now proceeds to pass the sentence indicated to it by the parties as aforesaid.

Having seen articles 2, 9, 10(1), 12, 22(1)(a)(f)(1A)(1B)(2)(a)(i) and proviso (aa)(3A)(a)(b)(c)(d)(7), 22(A), 24A, and 26 of the Dangerous Drugs Ordinance (Chap.101); Regulations 2, 9 and 16 of the 1939 Regulations for the Internal Control of Dangerous Drugs (L.N. 292/1939) and Sections 17, 23, 23A, 23B, 23C and 533 of the Criminal Code ;

Now therefore condemns the said Victor Odaro Izevbigie to a term of imprisonment of eight (8) years, and to the payment of a fine (multa) of twenty thousand Euros (€20,000), which fine (multa) shall be converted into a further term of imprisonment of twelve months according to Law, in default of payment ;

Furthermore condemns him to pay the sum of eight hundred and forty eight Euros and twenty four cents (€ 848.24) being the sum total of the expenses incurred in the appointment of court experts in this case in terms of Section 533 of Chapter 9 of the Laws of Malta;

Furthermore, orders the forfeiture in favour of the Government of Malta of all the property involved in the said crimes of which he has been found guilty and other moveable and immovable property belonging to the said Victor Odaro Izevbigie

And finally orders the destruction of all the objects exhibited in Court, consisting of the dangerous drugs or objects related to the abuse of drugs, which destruction shall be carried out by the chemist Mario Mifsud, under the direct supervision of the Deputy Registrar of this Court who shall be bound to report in writing to this Court when such destruction has been completed, unless the Attorney General files a note within fifteen days declaring that said drugs are required in evidence against third parties.

< Final Judgement >

Informal Copy of Judgement

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