



**CRIMINAL COURT**

**THE HON. MR. JUSTICE  
LAWRENCE QUINTANO**

Sitting of the 27 th January, 2012

Number 5/2011

**The Republic of Malta  
Vs  
Rui Miguel Da Silva Simoes Rosa**

**The Court,**

Having seen the bill of indictment no. 5/2011 against the accused Rui Miguel Da Silva Simoes Rosa wherein he was charged with:

- 1) After the Attorney General premised in the First Count of the Bill of Indictment that on the second (2<sup>nd</sup>) day of November of the year two thousand and nine (2009) and during the previous days and weeks, Rui Miguel Da Silva Simoes Rosa (hereinafter referred to as "RUI") 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 RUI conspired and agreed with other persons, namely a certain Seao and others, to illegally deal in and export from Amsterdam, The Netherlands and Brussels, Belgium to the Maltese Islands a quantity of the drug cocaine (circa 341.50 grams) (hereinafter referred to as the “drug consignment”).

They agreed also about the mode of action as to how this drug consignment was to reach Malta and eventually how it was to be dealt with in Malta following its arrival. They agreed about the route that this drug consignment was to take (Amsterdam, The Netherlands through to Brussels, Belgium to Malta; the packing and/or means of concealment (drug being inserted under the insoles of a pair of shoes to be carried by the accused RUI) and/or the means of transport (partly by car and partly by 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.

RUI agreed and planned with the said Seao, to eventually make contact with him after RUI would have reached the hotel in Malta so as to meet in Malta the person who was to receive from RUI the said drug for its eventual trafficking and distribution in the Maltese Islands. RUI 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 (circa €1000), which financial gain was also at the basis of this conspiracy.

In execution of these pre-concerted plans, the said Seao gave an airline ticket to RUI from Brussels, Belgium to Malta in order for RUI to transport this drug cocaine consignment from Brussels, Belgium to Malta by air. On the 1<sup>st</sup> of November 2009 Seao and RUI met in Amsterdam Central Station and Seao gave the bag, containing the pair of shoes in which the said

quantity of drug cocaine was hidden. From there RUI proceeded together with another man who drove him by car to Brussels airport. As RUI had lost the flight to Malta on that date, he arranged to have the airline ticket changed so that he could board the flight towards Malta on the 2<sup>nd</sup> November 2009.

So much so that on the 2<sup>nd</sup> November 2009, RUI boarded the flight KM421 leaving from Brussels, Belgium destination Malta, carrying this bag in which there was this pair of shoes which contained two packets filled with the said quantity of the drug cocaine. On this date RUI arrived in the Maltese Islands carrying this bag containing this pair of shoes in which the said drug consignment was hidden.

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

However before RUI managed to leave the Malta International Airport towards his destination in Malta he was intercepted by the Customs Officers who, together with the Malta Police Force managed to intervene in due time before this amount of drug cocaine managed to reach its intended final destination in the Maltese Islands, namely to the respective consignee of the said drug cocaine. The Customs Officers effected a search on the person of RUI and inspected the bag he was carrying through an x-ray machine. The said Customs Officers noted that the pair of shoes that RUI was carrying had something in them, and that they were heavier than normal shoes. The said Customs Officers inspected these shoes and when one of them partly opened these shoes, he noted that there was a brown packet in each of the said pair of shoes which packets were hidden under each insole of this pair of shoes.

Following this examination, it transpired that RUI was carrying circa 341.50 grams of the drug cocaine with a purity of circa 32.1% (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 circa twenty five thousand nine hundred and fifty four Euro (€25,954).

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, RUI 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 RUI of being guilty of having, on the second (2<sup>nd</sup>) day of November of the year two thousand and nine (2009) and during the previous days and weeks 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 demands 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 of the accused, 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, Chapter 101 of the Laws of Malta and of articles 17, 23, 23A, 23B, 23C and 533 of the Criminal Code, Chapter

9 of the Laws of Malta 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 second (2<sup>nd</sup>) day of November of the year two thousand and nine (2009) and during the previous days and weeks, RUI decided to export from Amsterdam, The Netherlands and Brussels, Belgium a quantity of the drug cocaine to be imported into the Maltese Islands. While in Amsterdam, The Netherlands, RUI met and agreed with a certain Seao, 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 an unidentified person in Malta, for its eventual trafficking in the Maltese Islands.

RUI and the said Seao agreed that this drug cocaine consignment was to be transported from Amsterdam, The Netherlands to Brussels, Belgium by car, and from Brussels, Belgium to Malta by air transport. On the 2<sup>nd</sup> November 2009 RUI was given a bag to be carried to Malta and in this bag there was a pair of shoes containing two packets filled with the drug cocaine under the insoles and he later boarded flight KM421 leaving from Brussels, Belgium destination Malta, carrying this bag with this pair of shoes containing the drug cocaine inside. On this date this flight arrived and landed in Malta. RUI was not authorized to import such dangerous drugs in terms of Law. RUI therefore managed to knowingly and illegally import in the Maltese Islands the drug cocaine.

However before RUI managed to leave the Malta International Airport towards his destination in Malta he was intercepted by the Customs Officers who, together with the Malta Police Force 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. The Customs Officers effected a search on the person of RUI and inspected the bag he was carrying through an x-ray machine. The said Customs Officers noted that the pair of shoes that RUI was carrying had something in them, and that they were heavier than normal shoes. The said Customs Officers inspected these shoes and when one of them partly opened these shoes, he noted that there was a brown packet in each of the said pair of shoes which packets were hidden under each insole of this pair of shoes.

Following this examination, it transpired that RUI was carrying circa 341.50 grams of the drug cocaine with a purity of circa 32.1% (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 circa twenty five thousand nine hundred and fifty four Euro (€25,954).

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, RUI 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 RUI of being guilty of having, on the second (2<sup>nd</sup>) day of November of the year two thousand and nine (2009), with criminal intent, imported or exported, or caused 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 of the accused, 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, Chapter 101 of the Laws of Malta and of articles 17, 23, 23A, 23B, 23C and 533 of the Criminal Code, Chapter 9 of the Laws of Malta 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 second (2<sup>nd</sup>) day of November of the year two thousand and nine (2009) and during the previous days and weeks, RUI agreed to export from Amsterdam, The Netherlands and Brussels, Belgium a quantity of the drug cocaine which was to be imported to the Maltese Islands. While in Amsterdam, The Netherlands and Brussels, Belgium RUI met a certain Seao with who he agreed to transport and carry a drug cocaine consignment hidden in two packets situated under the insoles of a pair of shoes which RUI agreed to carry from Amsterdam, The Netherlands and Brussels, Belgium to Malta by air transport. On the 2<sup>nd</sup> November 2009, RUI boarded flight KM421 leaving from Brussels, Belgium destination Malta, carrying this bag containing the pair of shoes in

which there was this drug consignment hidden. RUI was therefore knowingly and illegally in possession of two packets containing circa three hundred forty one point fifty grams (341.50 grams) of 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 RUI managed to leave the Malta International Airport towards his destination in Malta he was intercepted by the Customs Officers who, together with the Malta Police Force 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. The Customs Officers effected a search on the person of RUI and inspected the bag he was carrying through an x-ray machine. The said Customs Officers noted that the pair of shoes that RUI was carrying had something in them, and that they were heavier than normal shoes. The said Customs Officers inspected these shoes and when one of them partly opened these shoes, he noted that there was a brown packet in each of the said pair of shoes which packets were hidden under each insole of this pair of shoes.

Following this examination, it transpired that RUI was carrying circa 341.50 grams of the drug cocaine with a purity of circa 32.1% (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 circa twenty five thousand nine hundred and fifty four Euro (€25,954).

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, RUI 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 regulations 4 and 6 of the hereunder mentioned Regulations, 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 RUI that on the second (2<sup>nd</sup>) November of the year two thousand and nine (2009), in Malta, and with criminal intent, 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 regulations 4 and 6 of the hereunder mentioned Regulations, 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 of the accused, 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, 4, 6, 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, Chapter 9 of the Laws of Malta 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 on the 25<sup>th</sup> January, 2012, 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 six (6) years and the imposition of a fine of twenty three thousand Euros (€23,000) together with the other sanctions and consequences that are prescribed by law upon 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 other movable and immovable property 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 all the charges preferred against him under the 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 after being granted such a time, persisted in his statement of admission of guilt;

Now therefore declares Rui Miguel Da Silva Simoes Rosa guilty of all counts in the Bill of Indictment, namely of having:-

1. on the 2<sup>nd</sup> November, 2009 and during the previous days and weeks, 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 this according to the First Count of the Bill of Indictment;
2. on the 2<sup>nd</sup> November, 2009 and during the previous days and weeks, with criminal intent, imported or exported, or caused 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 this according to the Second Count of the Bill of Indictment;
3. on the 2<sup>nd</sup> November, 2009 and during the previous days and weeks, with criminal intent, 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 regulations 4 and 6 of the hereunder mentioned Regulations, 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 aforestated.

Having considered that the first and second count are absorbed in the third count in accordance with section 17(h) of the Criminal Code.

Having seen articles 2, 9, 10(1), 12, 14, 15(A), 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 (Chap.101); Regulations 2, 4, 6 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 (Cap. 9 of the Laws of Malta).

Now therefore condemns the said Rui Miguel Da Silva Simoes Rosa to a term of imprisonment of six (6) years, and to the payment of a fine (multa) of twenty three thousand Euros (€23,000), which fine (multa) shall be converted into a further term of imprisonment of twelve months according to Law, in default of payment within three months.

Furthermore condemns him to pay within month the sum of one thousand, seven hundred and five Euros and twelve cents (€1705.12) 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. Should this sum not be paid within one month, then it should be converted into a prison term in accordance with the law.

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 movable and immovable property belonging to the said Rui Miguel Da Silva Simoes Rosa.

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 as soon as possible by 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 the said drugs are required in evidence against third parties.

Informal Copy of Judgement

**< Final Judgement >**

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