



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

**MAGISTRATE DR.
ANTONIO MICALLEF TRIGONA**

Sitting of the 17 th May, 2012

Number 580/2000

The Police
(Inspector Martin Sammut)

vs.

Alsan Imdat

The Court,

Having seen the charges brought against the accused holder of identity card number 495395M charged with having:

1. on these islands, on 27 August 1998, knowingly put into circulation, sold or kept for sale or imported for any purpose of trade, any goods, that is clothing, bearing a fraudulent imitation of any mark, device or emblem and this in breach of Article 298 (1)(f) of the Criminal Code, Chapter 9 of the Laws of Malta;

2. on behalf of the Comptroller of Customs and the Director of Excise Tax, for having on these islands on 27 August 1998, on the arrival into Malta, on flight number KM831 from Istanbul, at the Malta International Airport, with the intent to defraud the Government of any Duties thereon, knowingly failed to declare to the Customs Authorities, attempted to pass through the 'Green Channel' the goods indicated in the 'Retained by Customs Form' number B/B 473/98, the importation of which is prohibited and/or restricted, the total value of mentioned goods is Lm383.00,0 and Duty due Lm50.55,4, which Duty was not paid and/or secured, and this in breach of Articles 60 (a) (b) (c) (k), 62 (a) (b) (c) (g) (h) (i) (k) (m) of the Customs Ordinance Chapter 37 of the Laws of Malta, Legal Notice 44/82 of the Laws of Malta and Act XII of 1997.

Having seen the Attorney General's note for the case to be heard summarily to which the accused did not oppose.

Having heard accused plead guilty to the charges on which plea he stood firm even after the Court gave him time and reconsider.

Having seen all the records and documents and examined the evidence presented up to accused s guilty plea to the charges:

Considers:

Accused has to answer for breaching Article 298 (1) (f) of Chapter 9 which deals with commercial and industrial fraud notably for knowingly on the 27th August 1998 imported with the intention of selling, clothing apparel, having a fraudulent mark, device or emblem; also with having imported said merchandise without declaring it to the customs authorities when attempting to pass through the green channel in breach of the Customs Ordinance, Chapter 37, and Legal Notice 44/82.

The accused has pleaded guilty to the charges.

On the strength of accused's unconditional and voluntary admission to the charges the Court finds him guilty.

In so far as punishment is concerned the Customs Ordinance provides that the penalties imposed by Article 62 (Chapter 37).

"Shall not apply in the case of an offence in connection with the importation of goods contrary to a prohibition or restriction which a penalty is expressly prescribed for that offence by the enactment or other instrument imposing the prohibition or restriction" and furthermore it considers all regulations enacted under the ordinance as having the same effect as if they formed part of this Ordinance. In view of this the accused although guilty of the charges as spelled out in the summons is liable to the punishment prescribed for the first charge that is prescribed under the Criminal Code.

Accordingly finds him guilty as foresaid and condemns the accused to a term of imprisonment of four months which by application of Article 28A of Chapter 9 are suspended for a period of one year from today provided accused does not commit a further indictable offence during the operative period of one year from today.

The Court has explained in clear language to the accused his responsibilities acceding to this judgment.

< Final Judgement >

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