



MALTA

COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE
MAGISTRATE DR.
NATASHA GALEA SCIBERRAS

Sitting of the 1 st April, 2014

Number. 80/2014

The **Police**

(Insp. Joseph Busuttli)

vs

Arpad Rajmund Palotai

The Court,

Having seen the charges brought against Arpad Rajmund Palotai, aged 36, son of Mihaly Lakatos and Erzsebet nee` Szaszko, born in Hungary on 7th April 1977, residing at Kibowi, Flat 8, Frejgatina Street, St. Paul's Bay and holder of a Maltese Identity card bearing number 80324A.

For having on 13th March 2014 and the previous days, in St. Paul's Bay and/or in other areas on the Maltese Islands:

1. Cultivated the plant *cannabis* in terms of Section 8(c) of Chapter 101 of the Laws of Malta;
2. Had in his possession (otherwise than in the course of transit through Malta or the territorial waters thereof) the whole or any portion of the plant *Cannabis* in terms of Section 8(d) of Chapter 101 of the Laws of Malta, which drug was found under circumstances denoting that it was not intended for his personal use.

The Court was requested, on pronouncing judgement or in any subsequent order, to sentence the person convicted to the payment, wholly or in part, to the Registrar, of the costs incurred in connection with the employment in the proceedings of any expert or referee, including such experts as would have been appointed in the examination of the process verbal of the inquiry, within such period and in such amount, as shall be determined in the judgement or order.

Having heard the evidence and having seen the records of the case, including the order of the Attorney General in virtue of subsection two (2) of Section 22 of the Dangerous Drugs Ordinance (Chapter 101 of the Laws of Malta), for this case to heard by this Court as a Court of Criminal Judicature;

After having heard the accused plead guilty to the first charge brought against him, which admission was confirmed by the same accused even after the Court, in terms of Section 453(1) of Chapter 9 of the Laws of Malta, warned

him of the legal consequences of that admission, and allowed him sufficient time to re-consider his reply, and to change it;

After having heard the oral submissions of the parties regarding punishment.

Considered that:

In view of the evidence brought forward by the Prosecution, as well as the guilty plea filed by the accused in respect of the first charge brought against him, the Court cannot but find him guilty of the said charge.

In respect of the second charge brought against the accused, however, the Court does not find that the Prosecution has proved beyond a reasonable doubt, that the *cannabis* plants, which the accused was cultivating, were not exclusively for his personal use. Indeed, the Prosecuting Officer during his final submissions, stated that the reason for bringing forward the second charge against the said accused, was merely the number of plants found at his residence, which amounted to ten. According to the said Prosecuting Officer, although the plants were in the initial stages of growth and were so small that they contained no substance that could be abused of as yet, however, the fact that the accused cultivated ten plants denotes that they were not merely for his personal use. The Court does not agree with this conclusion. Indeed, apart from the number of plants found, which as stated, were all in their initial stages of growth, with six of them being merely three centimetres high, there is absolutely no other evidence to suggest that the said plants were not intended for the accused's personal use.

The Court cannot thus find the accused guilty of the second charge as brought against him, but may only find him guilty of the offence of illegal or simple possession of the said plant.

As regards the punishment to be inflicted, the Court took into consideration that although the accused admitted to the first charge brought against him only after the Prosecution declared that it had no further evidence to produce, yet he cooperated fully with the police even whilst the relevant search was being effected at his residence. Furthermore, the Court took into account the

clean criminal record of the accused. The Court also considered the parties' suggestion that it inflicts the minimum punishment allowed by law. The Court also took into account the number of plants found in the possession of the accused.

Conclusion

For these reasons, the Court, after having seen Sections 8(c), 8(d), 22(1)(a), 22(1B), 22(2)(b)(i) and (ii) of Chapter 101 of the Laws of Malta, Regulations 4 and 9 of GN 292/1939 and Section 17(h) of Chapter 9 of the Laws of Malta, finds the accused guilty of the first charge brought against him, and finds him not guilty of the second charge as brought against him, but finds him guilty of the illegal (simple) possession of the said plant, and condemns him to **ten (10) months effective imprisonment** – from which term there must be deducted any period prior to this judgement, during which the person sentenced has been kept in preventive custody in connection with the offences of which he has been found guilty by means of this judgement and to **a fine of eight hundred Euro (€800)** to be paid by the person sentenced until the term of imprisonment is served. Should the person sentenced fail to pay the fine due by the said time, such fine shall become immediately due and shall be converted into a period of imprisonment at the rate of one day imprisonment for every thirty five Euro (€35) or part thereof that remains due.

Since no report was exhibited in these proceedings by any expert appointed during the stage of the inquiry, the Court **is not** sentencing the person convicted to the payment of any costs incurred, if any, in connection with the employment of such experts, in terms of Section 533 of Chapter 9 of the Laws of Malta.

< Final Judgement >

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