



MALTA

COURT OF CRIMINAL APPEAL

THE HON. MR. JUSTICE

MICHAEL MALLIA

Sitting of the 8th May, 2014

Criminal Appeal Number. 354/2013

Appeal No: 354/2013

The Police

Inspector Maria Stella Attard

Vs

Alassane Tangara

Today the 8th May, 2014,

The Court,

Having seen the charges brought against the accused Alassane Tangara, holder of Maltese Identity Card Number: 47809A, in front of the Court of Magistrates (Malta) as a Court of Criminal Judicature, with having:

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On the 26th October, 2012 at about 08:15 a.m. at Dawret Hal Ghaxaq, Ghaxaq:

1. Driven vehicle No. BAE-036 without having a driving licence from the Authority for Transport in Malta under that specified category to drive the mentioned vehicle;
2. Driven the mentioned vehicle No. BAE-036 when he was not covered by a policy of insurance in respect of third party risks.

The prosecution requested the Court that the mentioned person is disqualified from holding or obtaining any driving licence for a period of time not less than twelve months.

Having seen the judgement of the Court of Magistrates (Malta) as a Court of Criminal Judicature, delivered on the 9th July, 2013, wherein the Court, after having seen the articles, 15(1)(a)(3) Chapter 65 and 3(1) Chapter 104; found the accused guilty of all the accusations brought against him and condemned him to pay a fine for the amount of two thousand four hundred euro (€2400) payable over a period of two (2) years by monthly instalments of a hundred euro (€100) starting from 1st August, 2013. Furthermore the Court ordered that the accused driving licence be suspended for a period of one (1) year.

Having seen the appeal presented by Alassane Tangara in the registry of this Court on the 19th July, 2013 whereby this Court is requested

- 1) To revoke the appealed judgement and consequently
- 2) Acquit the appellant from the charge brought against him that says that he was not covered by insurance and also from any punishment and guilt according to law;
- 3) Alternatively, reform the appealed judgement and substantially reduce the punishment the Court inflicted, as it deems appropriate.

Having seen the acts of the proceedings;

Having seen the updated conducts sheet of the appellant, presented by the prosecution as requested by the Court;

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Having seen the grounds for appeal as follows:

1. That when the appellant purchased the vehicle, he went to the insurance company and covered his vehicle with an insurance policy. The insurance company was satisfied with the validity of the appellant's license.
2. Shortly after the incident, the insurance company paid the third party involved in road accident that gave rise to these criminal proceedings.
3. That the Honourable Magistrates Court was not satisfied that the applicant was covered by insurance policy even though he presented an original certificate during the hearing, as is required under section 3 (1A) of Chapter 104 of the Laws of Malta. The Honourable Magistrates Court concluded that once the license was not valid, the policy is not valid even though the insurance company paid all the damages suffered by the third party.
4. That pursuant to section 12 (3)(b) the insurance company is obliged to pay to the third party damages suffered due to the fault of their client and this notwithstanding that the appellant did not have a valid driving license and even though there may be clauses in the insurance policy claiming the contrary.
5. The applicant appellant believes that the Honorable Court of Magistrates did not appreciate the facts correctly nor interpret the law as required by the legislator.

Considers,

Accused was charged with having driven vehicle number BAE 036 without a valid driving licence and driving the same vehicle when not covered by a policy of insurance in respect of third party risks. During the sitting of the ninth (9th) July two thousand and thirteen (2013) appellant registered a guilty plea and the court proceeded to deliver judgement where it found the appellant guilty, condemned him to a fine for the amount of two thousand four hundred Euros (€2,400) and ordered to suspension of his driving licence for a period of one year.

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Appellant felt aggrieved by this judgement and duly filed an appeal arguing that the first court could not have found him guilty because according to article 12(3) of Chapter 104 anyone in possession of a valid insurance certificate is covered irrespective of a road licence. Appellant claimed that he did have a valid insurance certificate and the one filed in court covered a period after the accident but he did in fact have an insurance cover at the time of the accident.

Considers,

During the sitting of the twentieth (20th) February two thousand fourteen (2014) Stephen Caruana on behalf of Transport Malta gave evidence stating that appellant does not have a local driving licence but he did confirm that he had a valid insurance cover issued by Fogg Insurance for the period thirteenth (13th) August two thousand and twelve (2012) to the twenty eighth (28th) of February two thousand and thirteen (2013). The accident happened on the twenty sixth (26th) of October two thousand and twelve (2012) and therefore appellat was covered.

Considers,

That this Court therefore does not find guilt as regards the second charge.

The first Court did not have available to it the valid insurance cover as the one filed covered a period after the accident. So this Court does not censure the first Court as to the guilt found regarding the second charge. But this court is now in a position to review the case taking in its consideration the fact that appellant did have a valid insurance cover at the time of the accident.

This court therefore on the basis of the new evidence filed before it, upholds the appeal, reforms the first judgement in the sense that it confirms the first court's decision as regards guilt to the first charge and condemns appellant to a fine of three hundred Euros (€300) and reforms the first judgement as regards the second charge, declares appellant not guilty and consequently

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revokes the fine of two thousand four hundred Euros (€2,400) and the suspension of the driving licence for one year.

< Final Judgement >

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