MALTA

QORTI TAL-MAGISTRATI (MALTA)

BHALA QORTI TA' GUDIKATURA KRIMINALI

MAGISTRAT DR.

MARSEANN FARRUGIA

Seduta tat-22 ta' Dicembru, 2014

Numru. 1282/2014

Il-Pulizija

(Spettur Carlos Cordina)

vs.

Luigi Cirella

Luciano Siviglia

-Omissis –

-Omissis -

Il-Qorti,

Rat l-imputazzjonijiet dedotti kontra:

Luigi Cirella ta' 37 sena, bin Gaetano u Concetta xebba Tarallo imwieled fit-13 ta' Settembru 1977 gewwa Napli, l-Italja, residenti Via Santa Marija Di Pozzo 17 C Napli u detentur ta' dokument ta' l-identita Taljan bin-numru AN 3867568;

Luciano Siviglia ta' 50 sena, bin il mejta Antonio u Assunta xebba Esposita imwieled fit-28.01.1963 gewwa Napli, l-Italja, residenti Figurelle 22 Napli u detentur ta' dokument ta' l-identita Taljan bin-numru AM 1041901;

Omissis

Omissis

Akkuzati talli nhar il-21 ta Dicembru 2014 u / jew fil-jiem u l-gimghat ta' qabel;

1. xjentement laqghu għandhom jew xtraw ħwejjeġ misruqa, meħuda b'qerq, jew akkwistati b'reat u cioe' vetturi ta' l-ghamla Mercedes ML, Range Rover Evoque, Mercedes S Class u kif ukoll Mini Minor bin-numru ta' reġistrazzjoni mhux maghrufa, sew jekk dan sar f'Malta jew barra minn Malta, u / jew, gewwa Malta xjentement, b'kull mod li jkun, dahhlu biex ibiegħu u / jew imexxu;

U lil *Omissis* wahdu akkuzat talli :-

1. kellu fil-pussess tieghu ir-raza mehuda mill-pjanta Cannabis jew xi preparazzjonijiet li jkollhom bhala bazi din ir-raza bi ksur ta' l-Art 8 (a) tal-Kap 101 tal-Ligijiet ta' Malta;

2. Importa, jew gieghel li tigi importata jew ghamel xi haga sabiex tigi importata medicina perikoluza (Cannabis Resin) f'Malta, bi ksur tad-dispozizzjonijiet tal-Ordinanza Dwar il-Medicini Perikoluzi, Kap. 101 tal-ligijiet ta' Malta.

Semghet ix-xhieda u rat l-atti kollha tal-kaz u d-dokumenti ezebiti.

Rat li l-imputati Luigi Cirella u Luciano Siviglia irregistraw ammissjoni fi stadju bikri ta’ dawn il-proceduri.

Il-Qorti wissiet lill-imputati Luigi Cirella u Luciano Siviglia bil-konsegwenzi serji tal-ammissjoni taghhom u senjatament li l-piena massima ghall-imputazzjoni dedotta kontrihom tista’ twassal ghal piena ta’ seba’ (7) snin prigunerija, u wara li l-Qorti tat lill-imputati hin adegwat biex jikkonsultaw mal-Avukat difensur taghhom u jaraw jekk iridux jirrevedu l-posizzjoni taghhom, l-imputati regghu kkonfermaw l-ammissjoni taghhom.

Wara li semghet it-trattazzjoni tal-partijiet dwar il-piena.

Ikkunsidrat:

Illi mill-provi migjuba u mill-ammissjoni ta’ l-imputati stess, il-Qorti ssib lill-imputati hatja ta’ l-imputazzjoni migjuba fil-konfront taghhom.

Illi dwar il-piena, il-Qorti hadet in konsiderazzjoni l-ammissjoni bikrija maghmulha mill-imputati u l-fatt li huma ikkoperaw mal-pulizija.

Kif sewwa irrilevat id-difiza, il-Prosekuzzjoni ma gabet l-ebda prova dwar tal-valur tal-karozzi misruqa, u ghalhekk l-imputati ghandhom jinghataw il-beneficcju tad-dubbju, u ghal fini tal-Artikolu

279 tal-Kodici Kriminali, il-Qorti sejra tikkunsidra li l-valur tal-vetturi misruqa ma kienx jaqbez €2,329.37.

Pero l-Qorti ma temminx il-verzjoni li taw l-imputati fl-istqarrija taghhom, li huma kienu taht l-impressjoni li l-vetturi kienu tal-kiri, u ma kienux jafu li kienu misruqa. Mill-istqarrija taghhom jirrizulta li l-imputati kellhom is-suspetti taghhom li dak li kienu se jaghmlu ma kienx legali. Fil-fatt l-imputat Luigi Cirella jghid hekk fl-istqarrija: *"Irrid nghid li qabel tlajna fuq il-katamaran, iccekkjajt jekk kienx hemm il-ktieb ta' log book u infatti ma sibtux. Bsart li il-karozzi kienu misruqa."* Min-naha l-ohra, l-imputat Luciano Siviglia jghid li huwa kien qal lill-Malti *"li nhobb naghmel affarijiet onesti u kont mbezza. U hu kien qalli li nserrah rasi ghax kollox sew u huma biss karozzi tal-kiri."* Jekk veru l-imputat Siviglia ihobb jaghmel affarijiet onesti u dahalu dubbju li dak li kien ser jaghmel kien illegali, kellu jitlob prova lill-Malti li l-karozzi kienu tal-kiri. L-istess ragunament jghodd ghall-imputat Cirella.

Ghaldaqstant, il-Qorti hija tal-fehma li l-imputati ghandhom jahsdu dak li zerghu f'termini ta' piena, u ghandhom jinghataw piena karcerarja effettiva. Dan ghandu iservi wkoll bhala deterrent ghal nies barranin ohra li jigu Malta biex jikkommettu reati.

Kif gie ritenut mill-Qorti tal-Appell Kriminali fis-sentenza The Police v. Andrei Dragos Opincaru, deciza fit-12 ta' Frar 2009: *"Secondly, the aim of a suspended sentence is to ensure that a particular offender is placed under the proverbial "sword of Damocles" to ensure that he does not relapse, at least during the operative period of a suspended sentence. In other words, during this period, the offender knows that he is being indirectly monitored and, with this knowledge, he might be more inclined to repent and reform, whereas with non resident offenders, who are likely to spirit themselves away from these Islands as soon as they have been awarded such a suspended sentence, there can be no monitoring whatsoever by the State organs to ensure that they become reformed and better citizens in the fresh pastures they may decide to venture to. As such, the Courts have to be very perspicacious when applying this measure with non residents as very often it can be interpreted as a "mere slap on the back" of the offender who will be all too pleased to have been let off so lightly by Maltese justice. Certainly the reformative purpose of such measure is very doubtful and the deterrent effect of such sentencing would be minimal in such cases and might be even very counterproductive in the long run, especially where internationally organized crime is concerned."*

Pero, tenut kont tac-cirkostanzi kollha, il-Qorti sejra tati lill-imputati piena karcerarja fil-minimu legalment possibbli.

Konkluzjoni

Ghal dawn il-motivi, il-Qorti, wara li rat l-Artikolu 334 tal-Kapitolu 9 tal-Ligijiet ta' Malta, issib lill-imputati hatja ta' l-imputazzjoni migjuba kontra taghhom, u tikkundannahom ghal piena karcerarja effettiva ta' hames (5) xhur.

< Sentenza Finali >

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