



MALTA

COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE
MAGISTRATE DR.
AUDREY DEMICOLI

Sitting of the 27th March, 2015

Number. 1234/2014

Police
(Inspector Frank Sammut)

VS

Gyamerahkwarkoh Addo

The Court;

Having seen the charges brought against Gyamerahkwarkoh Addo Ghana National born on the 23rd April 1980 in Ghana, son of Gyamerah and Elisabeth, residing at Bolton Flat 5, St George's Street, Gzira and holder of Police Number 07VV-010.

Accused with having on the 13th December 2014 in these islands, forged, altered or tampered with an Italian Passport or document, or used or had in his possession an Italian Passport or document, which he knew to be forged, altered, tampered with, in the name of Toure Kareem (Cap 61, Sec 5 of the Laws of Malta);

Accused also with having on same date, time and circumstances committed any other kind of forgery, or have knowingly made use of any other forged document, in the mentioned documents (Cap 9, Sec 189 of the Laws of Malta);

Accused him also with having on the same date, time and circumstances made use or attempted to make use of Passport, issued to another person, that is the mentioned document (Cap 61, Sec 4 of the Laws of Malta)

Accused also with having on the same date, time and circumstances without lawful authority used or had in his possession any document required for the purposes of this Act which is forged (Cap 217, Sec 32(1d) of the Laws of Malta)

Having seen all the acts of the proceedings including the Attorney General's consent dated 13th December, 2014 (exhibited at. folio 3 of the proceedings) for this case to be treated summarily.

Having heard final submissions made by the Prosecution and the Defence Council.

Having considered:

That the facts of this case are as follows. On the 13th December 2014 the accused was arrested during a gate check at the Malta International Airport when he attempted to check in for a Ryan Air flight 3475 bound for Eindhoven because the identification documents presented by him, i.e an Italian Residence Permit (Dok. FS1) and a travel document (Dok. FS2) were suspected to be counterfeit. When the said documents were examined by WPS 306 Claire Borg¹ it was confirmed that the identification documents presented by the accused did not belong to him and were manifestly counterfeit. The accused made a statement to the Police² whereby he confirmed that he was aware that he had been arrested earlier on in the day because he was in possession of false documents when he tried to board a flight to Holland where he wanted to visit his brother. He also confirmed that he had been in Malta for eight years and that his request for political asylum had been rejected. Regarding the identification documents which were found in his possession and which he attempted to use to travel to Holland, the accused said that he obtained the said documents at the car booth sale in Birgu when he bought a haversack for €5 and upon returning home and opening the haversack he found the passport inside the said haversack. The accused admitted that he was aware that the passport did not belong to him but stated that he did not know that the said

¹ Vide report inserted at folio 12 of the acts of the proceedings.

² Inserted at folio 8 and 9 of the acts of these proceedings.

passport was counterfeit. He also stated that he had bought the ticket to travel to Holland himself and he wished to visit his brother who was unwell. The accused gave the same version of events when he opted to give evidence before this court on the 10th March 2015.

Having considered;

That the identification documents found in the accused's possession, i.e Dok. FS1 and Dok. FS2 inserted at folio 27 and 28, were duly examined by the Court appointed expert John Charles Ellul³ whereby it was confirmed that Dok. FS1 and 2 are both counterfeit. In the said report it was also established that *"the forgery consists of clear and supported evidence that the substrates, the printing and the personalisation have been produced by a commercial setup and are not commensurate with the required minimum security standard requirements that are legally established fro these documents"*

The accused is hereby being charged with having made use or had in his possession the Italian passport and document which he knew to be false, with having knowingly made use of a forged document, with having attempted to make use of of a passport issued in the name of another person, with having made a false statement to the Principal Immigration Officer and also with having in the same circumstances unlawfully made use of a document which he knew to be false.

After having duly examined all the evidence brought forward by the Prosecution in this case this Court deems that the said Prosecution has

³ Vide report at folio 52 et sequitur of the acts of these proceedings and the evidence of the said expert at folio 48 et sequitur.

managed to prove to a degree of beyond reasonable doubt that the accused is guilty of all the charges brought against him. The Prosecution has in fact not only managed to prove that the documents which were found in the accused' s possession and which he made use of to try and board the flight to Eindhoven were manifestly counterfeit but also that the accused was fully aware that the said documents were counterfeit. The accused declared that he was aware that the passport in question was not issued in his name but he attempted to make use of it nonetheless. The Court deems that the explanation given by the accused as to the manner in which the documents in question came in his possession is not credible and is indicative that he was fully aware that the documents in his possession were counterfeit. It is hardly likely that one finds an Italian passport and travel documentation in a haversack which one buys from a car booth sale in Birgu for €5 and that one fails to have the least suspicion that the said document is counterfeit. Moreover the Court appointed expert indicated that the said documents were manifestly counterfeit and in fact this was immediately noted by the airport official at the check in counter when the documents in question were presented to him by the accused. If therefore one had to believe the accused' s version, one fails to understand how he could not have noticed that a passport found in a haversack bought in a car booth sale which is manifestly counterfeit and which is issued in the name of a third party is not authentic.

The Court would also like to point out that the Prosecution did not need to prove that the accused was the person who had effected the forgery, it only needed to prove that the accused was in possession of the forged documents and that he made use of the said forged documents when he was aware that the said documents were counterfeit. As pointed out

above the Court deems that the Prosecution managed to prove all of this to a level of beyond reasonable doubt and the accused shall therefore be found guilty of all the charges brought against him.

When considering the most adequate form of punishment the Court took into consideration the serious nature of the offences for which the accused is being found guilty as well as the fact that he failed to co-operate with the Police during the course of the investigations and it therefore deems that an effective prison term should be imposed.

For the abovementioned reasons and after having seen Sections 4 and 5 of Chapter 61 of the Laws of Malta, Sections 189 and 17 of the Criminal Code and Sections 32(1)(c) and (d) of Chapter 217 of the Laws of Malta the Court finds the accused guilty of all the charges brought against him and condemns him to seven (7) months imprisonment.

In terms of Section 533 of the Criminal Code the Court also condemns the accused to pay the Registrar of the Criminal Courts, and this within one month of the relative request in writing made by the said Registrar, the sum of six hundred and fifty nine Euros (€659), which amount represents the expenses incurred for the appointment of experts in this case.

< Final Judgement >

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