



MALTA

COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE
MAGISTRATE DR.
ANTONIO MICALLEF TRIGONA

Sitting of the 11 th June, 2015

Number 1441/2011

Police

(Inspector Louise Callejja)

vs

Naser Diadar

The Court,

Having seen the charges brought against the accused of identity Card number 18702A with having whilst in the Maltese Islands between the 1st October 2008 and the 20th December 2011 as a legitimately married man to Linda Kostantinova Denkova and whilst this legitimate marriage was still going on with Linda Kostantinova Denkova in these islands and in other places contracted another marriage with Melissa Dizdar nee Hadzic;

Having seen Attorney General's consent that the case be heard summarily, not opposed by the accused;

Having heard the evidence;

Informal Copy of Judgement

Having seen all acts and records of the proceedings;

Considers:

From the documents and evidence produced, it transpires that accused was twice married. His first marriage is proven to have been with a certain Linda Kostantinova Denkova, which was contracted in Malta on the 18th October 2008; his second marriage with a certain Melissa Hudszdik was contracted on the 31st July 2010 in Bosnia Herzegovina. From the records of the proceedings, it transpires that his first marriage was annulled by judgment of the First Hall of the Civil Court dated 31st October 2013 duly inserted in the acts. This fact alone of his first marriage having been annulled gives a different meaning to these proceedings.

It hardly need be clarified that the sole charge against the accused is that of bigamy which is sanctioned by Article 196 of the Criminal Code. The Article provides that “ a husband or wife who, during the subsistence of a lawful marriage, contracts a second marriage, shall on conviction, be liable to imprisonment for a term from thirteen months to four years”

The operative words for the crime of bigamy to be actionable in accordance to the article just quoted are “during the subsistence of a lawful marriage, contracts a second marriage”. On the strength of a judgment of the Court of Appeal inserted in the records of these proceedings the first marriage must be both lawful and valid, which lawfulness and validity do not exist any longer and deemed never to have existed once its annulment is pronounced. Precisely what has occurred in this case.

Therefore, in view of the above, the Court declares accused not guilty and consequently acquits him of the charge brought against him.

< Final Judgement >

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