

Criminal Appeal Court Declares Alberto Chang Rajii a Free Man

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by Matthew Agius

Alberto Chang Rajii, who was arrested in Malta in 2016, is wanted in Chile to face charges of investment fraud through a Ponzi scheme run by his company.

There were handshakes and smiles in court as Chilean businessman Alberto Chang Rajii walked out a free man after the Court of Criminal Appeal upheld a judgment preventing his extradition to his native Chile.

Chang Rajii is wanted in Chile to face charges of investment fraud through a Ponzi scheme run by his company Grupo Arcano. He was arrested in Malta in 2016 and released on bail against a €100,000 deposit.

In a decision in April 2017, the court of Magistrates had concluded that the prosecution had failed to sufficiently prove that the offences with which Chang Rajii is accused in Chile are extraditable offences in accordance with the Palermo Convention and had dismissed the request for his extradition.

The Attorney General had appealed, arguing that in extradition proceedings one must not interpret legal concepts restrictively and neither should the court of committal delve more than necessary into technical legal concepts with a restrictive perspective. The Court of Committal is to determine on a prima facie basis whether the requested person has a case to answer and whether the offences are extraditable ones at law, he had argued.

Judge Antonio Mizzi, having seen the records of the case, began by observing that the only legal basis for interaction between Malta and Chile is the United Nations Convention on Transnational Organized Crime.

The court, after analyzing the law and jurisprudence, said it was bound by the reasons of the appeal raised by the appellant. In this case the AG had raised a number of arguments and had to stick to them, despite him presenting other documents at the appeal stage.

The AG had argued that the court of committal shouldn't have taken a restrictive approach in interpreting the law and that it should adopt a "broad view" when it comes to legal technicalities. But judge Mizzi disagreed. "On a practical level this would mean that a Maltese Court is rendered irrelevant as it must accept all that the AG declares that is admissible and acceptable and stop at that. Quite frankly this would usher in an era where one does not need the courts anymore..." Mizzi dismissed the argument as a "provocation" which would not be tenable in view of 150 years of legal development.

The court could also not accept any of the translations forwarded by the Chilean authorities as they were not affirmed on oath by the translator.

Pointing out that there was no request by the AG for the court to evaluate the evidence afresh, and so the new evidence it brought in at the appeal stage did not help it at all, the court said that the AG could not expect to overturn the decision of the court of committal "without any satisfactory reasons".