

**THE MAGISTRATES COURT (MALTA) IN
AS A COURT OF CRIMINAL JUDICATURE
A.MICALLEF TRIGONA LL.D.,MAG.JUR (EU LAW)**

THIS 26TH APRIL 2017

The Police
(Inspector Hubert Cini)

Vs

Edward John Treadgold

The Court,

Having seen the charges brought against the accused bearer of ID card number 63623A with having on the 27th August 2014 at about 12.10 hrs, at the LIDL Supermarket car park in Triq il-Karmnu, Hal Luqa:

1. committed theft of a mobile make Samsung Galaxy S2, a wallet containing a €20 note and a € 5 note, various HSBC bank cards, for a value of more than €232.94 but less than €2329.37, to the detriment of Amanda Jane Bunce, theft aggravated by value in violation of Section 261 and 279 (a) of the Criminal Code Chapter 9 of the Laws of Malta;
2. Knowingly received or purchased any property which has been stolen, misplaced or obtained by means of any offence whether committed in Malta or abroad, or knowingly took part in any matter whatsoever, in the sale or disposal of the same, in violation of Section 334 of the Criminal Code Chapter 9 of the Laws of Malta;

Having heard the evidence;

Having seen all the acts and records of the proceedings;

Considers:

The two charges proffered against the accused, that is, of theft and of receiving stolen property are exclusive of each other. From the evidence produced it should be clear that the second charge, namely that of receiving stolen property does not hold. The Court is consequently as of now acquitting the accused of this second charge.

The property in question is a handbag containing a Samsung Galaxy mobile phone, a wallet with a €20 and a €5 note inside, and a number of HSBC bank cards and other documents as per list exhibited at folio 32.

Moreover, it results from the acts of proceedings that the handbag with the items described above were of a certain Amanda Bunce who had inadvertently forgotten to pick up the handbag from the shopping trolley which she had carted next to her parked car in the parking area of LIDL, Luqa. Upon retrieving the purchased items she had forgotten the handbag in the shopping trolley where it remained unattended until noticed by the accused. It transpires from the evidence that the accused had come across the trolley, noticed the handbag, picked it up and placed it in his car. Accused states in his testimony that it was never his intention to purloin the handbag adding that he was unaware as to its contents and that he had intended to hand it over

to the police straightaway if it were not for the fact that he had gone to celebrate a friend's birthday in Bugibba which lasted until the early hours of the day after.

It further transpires from the acts of the proceedings that the proprietor of the handbag, the said Amanda Bunce, had reported it missing to the police on that same day immediately she had noticed its disappearance and after she had gone to the spot where she had earlier parked her car and could not find it. Whereupon, the evidence shows, that the police had identified the accused from the CCTV recording installed in the said parking area.

It would not be amiss at this stage for the Court to observe that the handbag had gone missing on the 27th August and retrieved by the police on the following day, that is the 28th August, after the police had contacted the accused who had thereupon handed it to the police with all its items intact.

Considers:

That accused is not contesting that he had taken the handbag which was in a shopping trolley. He, however, insists that his intention was to hand it over to the police.

It is accepted knowledge that in order for a crime to subsist the act in itself is not sufficient to make up the offence unless the criminal intention is also shown to exist. In the case in question the criminal intent would have consisted in the specific intention to steal the handbag.

On reviewing the evidence the Court is giving credence to the testimony of the accused, that is, that he had taken the handbag, noticing it was unattended in a shopping trolley in a car park, wanting to hand it in to the police but was beaten at the post (so to speak) by the police. Nor, would it appear that accused contravened the minor but related offence of failing to hand the thing to the police as the time he could have done this had not elapsed.

Consequently, in view of what has been said above, finds and declares the accused not guilty and acquits him.

A.M.Trigona
Magistrate