

**The Court of Magistrates (Malta)**  
As a Court of Court of Criminal Judicature

*Magistrate Dr Aaron M. Bugeja M.A. Law, LL.D. (melit)*

**The Police**

**(Inspector Jonathan Ransley)**

**vs**

**Anne Downer**

The Court after seeing the charges brought against **Anne Downer** holder of Maltese Identity card number 429800A and who was accused of having on the 1<sup>st</sup> January 2014 from Triq ix-Xatt, Sliema, :-

1. Committed theft of a vehicle (Taxi 210M) of the make Peugeot to the detriment of Jonathan Cassar and/or other persons, which theft is aggravated by means and amount exceeding two thousand three hundred twenty nine euros and thirty seven cents;
2. Wilfully committing any spoil, damage or injury to or upon any movable or immovable property when she caused damage to various parts of the mentioned vehicle (Taxi 210M) of the make Peugeot to the detriment of Jonathan Cassar and/or other persons which damage exceeds one thousand and one hundred and sixty four euro sixty nine cents.

Having seen that during the sitting of the 24th March 2014 this Court ordered that proceedings be carried out in the English language after that it ascertained that the accused is English speaking in terms of law.

Having seen that on the same date the Prosecuting Officer confirmed the charges on oath and during the examination of the accused in terms of Article 392(1)(b) of the Criminal Code the accused declared that she was not guilty.

Having seen that in terms of a formal written accusatory document issued on the 6th February 2015 the Attorney General found that from the preliminary investigation in this case there might result an offence or offences under the provisions of :

- a. Articles 17, 31, 261(b)(c), 263(a), 267, 278, 279(b) and 325(1)(a) of the Criminal Code, Chapter 9 of the Laws of Malta;

And decided in terms of Articles 370(3)(a) of the Criminal Code to send the accused for trial by this Court subject to no objection being made by the accused in accordance with Article 370(3)(b)(c)(e) of the Criminal Code.

Having seen that during the sitting held on the 6th May 2015 the Prosecuting Officer declared that the Prosecution had no further

witnesses to produce and that it was resting its case. During the same sitting in terms of Article 370(3)(b) of the Criminal Code, the Court, after reading out the contents of the formal accusatory document to the accused, requested the accused whether she found any objection to her case being dealt with summarily. After giving the accused a reasonable time within which to reply, and after consulting her Legal Counsel, she declared that she had no objection to her case being dealt with summarily. The Court therefore took note of this declaration in writing in the records of these proceedings in terms of Article 370(3)(c) of the Criminal Code.

Having heard the final oral submissions of the Prosecuting Officer and of the Legal Counsel to the accused the Court adjourned this case for judgment in terms of Article 377 of the Criminal Code.

Having analysed the documents that were exhibited and all the records of the proceedings;

**This Court considered that :-**

The Court is convinced beyond a reasonable doubt of the Prosecution's arguments in relation to the first charge. The accused admits taking the taxi from Triq ix-Xatt, Sliema. From the testimony of the taxi driver, Charles Tonna, this was clearly done without his knowledge and

consent. The Court makes reference to the case *Il-Pulizija vs Martin Dimech* decided by the Court of Criminal Appeal on the 10th July 1998 wherein it was stated that :

Mill-kumpless tal-provi din il-Qorti hi sodisfatta li kien hemm l-elementi kollha ghar-reat ta' serq *tal-Wild Turkey*, u cjoe: (i) l-impossessament ta' l-imsemmi *yacht*; (ii) li kien proprjeta ta' haddiehor; (iii) bil-konsapevolezza fl-agent li qed jiehu oggett ta' haddiehor; u (iv) minghajr il-kunsens tas-sid jew tal-possessor ta' l-istess oggett; u finalment (v) bil-hsieb ta' gwadann. Dan il-hsieb ta' gwadann - *animus lucrandi* - fis-serq mhux necessarjament ikun gwadann pekunjarju dovut ghar- reciklagg ta' l-oggett misruq. Il-gwadann maghmul mill-uzu tal-haga huwa bizzzejjed. Infatti dak li *jissejjahfurto d'uso hu furto*, serq, fejn proprju l-gwadann hu maghmul jikkonsisti mill-uzu, ankorke temporanju, ta' l-oggett (ara l-artikolu 288 tal-Kodici Kriminali).

The Court is convinced beyond a reasonable doubt that the elements of theft as quoted in this judgment were also proven in this present case.

As for the second charge, the Court deems that the Prosecution failed to prove that the damages were carried out wilfully by the accused.

## Decides

Consequently, this Court, after having seen the Articles of the Criminal Code quoted by the Attorney General, and that is to say Articles 17, 31, 261(b)(c), 263(a), 267, 278, 279(b) and 325(1)(a) of the Criminal Code, Chapter 9 of the Laws of Malta finds the accused not guilty of the second charge and therefore acquits her from the same charge. At the same

time the Court finds the accused guilty of the first charge; however having regard to the circumstances of the case including the nature of the offence and the character of the offender, is of the opinion that it is inexpedient to inflict punishment, and after having seen Article 22(1) of Chapter 446 of the Laws of Malta, the Court is imposing an order discharging the offender subject to the condition that she commits no offence during a period of three years from the date of this judgment.

Furthermore, after having seen Article 22(3) of Chapter 446 of the Laws of Malta, the Court declares to have explained to the offender in ordinary language that if she commits another offence during the period of conditional discharge, the offender will be liable to be sentenced for the original offence.

**Delivered today the 27<sup>th</sup> of September, 2017, at the Courts of Justice in Valletta, Malta.**

*Aaron M. Bugeja*