



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

Magistrate Dr. Doreen Clarke LL.D.

Today, 12th June 2018

**The Police
(Inspector Fabian Fleri)
(Inspector Jonathan Ransley)**

vs

Joseph Troisi

The Court,

Having seen the charges against Joseph Troisi and holder of identity card number 204556 (M).

Charged with having committed the following offence:

1. On the 4th of June between twenty past ten and quarter to eleven in the morning in the alley way leading from The Stand, Gzira into the Housing Estate of Gzira committed the theft of eight hundred and fifty Euros (€850) from the person of Giuseppe Borg of 85 years which theft is aggravated by amount; Articles 261 (c), 267, 279 (a) of Chapter 9 of the Laws of Malta.

The Court was requested that in the case of a guilty verdict condemns the accused to pay the expenses in relation to the appointment of experts or architects in these procedures as contemplated in article 533 of Chapter 9 of the Laws of Malta.

The Court was asked to besides applying the punishment according to law, applies also the articles 383, 384 and 385 of Chapter 9 of the Laws of Malta for the security of the persons indicated above.

The Court was requested in pronouncing judgment or any subsequent order to order the payment of the costs incurred in connection with the employment of experts as per article 533 of Chapter 9 of the Laws of Malta.

Having seen that in today's hearing held by this Court sitting as a Court of Criminal Judicature the defendant admitted the charge brought against him and that he confirmed this admission of guilt even after having been given time to reconsider his plea.

Having heard the submissions of the parties regarding the penalty to be meted out.

Having seen the acts of the proceedings.

Having considered

That defendant admitted the charge brought against him, this is consequently sufficiently proven.

With regards to the penalty to be meted out there are a number of factors which are to be taken into consideration the first of which is the nature of the offence of which defendant is being found guilty. There can be no doubt that the offence in question is of itself a very serious offence; when perpetrated against such a vulnerable person as an eighty five year old it becomes even more heinous. An other important factor is the defendant's age: 62. Defendant presented himself before this Court as a normal mature adult, and he cannot resort to the excuse often resorted to by juvenile offenders claiming that their behaviour was the result of an immature impulse. The Court infact considers defendant's behaviour as reprehensible and inexcusable.

On the other hand defendant did cooperate with the police during the investigation and he admitted the charge brought against at the earliest stage of these proceedings. These factors must also be taken into consideration in a decision as to the penalty to be meted out.

In the submissions made on behalf of the defendant it was claimed that the Court should also apply section 337(2) of Chapter 9 of the Laws of Malta since the injured party was reimbursed the amount that was stolen. In this regard it should be pointed out that whilst it is true that the injured party was reimbursed

the amount stolen, this reimbursement was not effected directly by the defendant. When defendant was apprehended by the police a number of days after the theft was committed the amount of €1742.00 (in €2.00 coins) was seized from his possession. Having had this amount seized the defendant accepted that the injured party should be re-imbursed. In spite of the circumstances in which the defendant was re-imbursed the Court will apply the provisions of the said section 337(2).

In terms of section 279(a) of Chapter 9 of the Laws of Malta the penalty for theft aggravated by amount when the amount does not exceed two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37) is that of imprisonment for a term from five months to three years. By application of section 337(2) the penalty should be reduced by two degrees, such that it will be reduced to a prison term from one month to eighteen months.

Having considered further that the consequences suffered by the injured party, particularly a vulnerable eighty five year old, go beyond the financial loss suffered (for which he is already compensated) but would have a psychological effect which cannot be easily reversed.

In view of the above the Court is of the opinion that the penalty to be meted out should be an effective prison term closer to the minimum rather than the maximum.

Wherefore the Court after having seen sections 216(c) and 267 as well as sections 31, 279(a) and 337(2) of Chapter 9 of the Laws of Malta, on his admission finds defendant guilty of the charge brought against him and condemns him to six months imprisonment.

DR DROEEN CLARKE
MAGISTRATE