



**COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE**

MAGISTRAT DR FRANCESCO DEPASQUALE

SITTING DATED 6th NOVEMBER 2018

The Police

Vs

Brian David Ciarlo'

(ID 236502L)

The Court,

Saw the accusations levelled against Brian David Ciarlo, aged 22, born on the 24th March 2004 in Newcastle, England, son of Nicholas and Julie nee' Finche, holder of Identity Card number 236502L, residing at Flat 13/2, Matthew Pulis Street, Sliema, wherein he was accused:

1. That on the 1st September 2004, at around 3.30am, and on other days previous to this, in St. Julians, committed acts of theft from the Garden View Coples, Triq is-Sirk, Swieqi, aggravated by time, place and means, as per sections 263 (a), 269 (g) and 270 of Chapter 9 of the Laws of Malta.

2. Also that on the 1st September 2004, at about 3.30am, entered into the dwelling house of another person without his knowledge as per section 339 (o) of Chapter 9 of the Laws of Malta.

Saw that the accused was arraigned under arrest on the 4th September 2004, wherein he pleaded not guilty and was granted bail.

Saw the evidence of Inspector Therese Sciberras given on the 27th September 2004.

Saw the evidence of Juliano Aquilina, owner of Hotel Garden View, Swieqi, given on the 27th September 2004.

Saw that on the 8th November 2004 the Court was informed that the principal witness could not be produced as other proceedings were pending against him.

Saw that on the 8th November 2004 the Court adjourned the sitting *Sine Die*.

Saw that on the 11th April 2018, the acts were forwarded to the present Court, following the retirement of Magistrate Antonio Micallef Trigona, who has commenced hearing the case in 2004, and in whose possession this present case was retained and never re-appointed until his retirement.

Saw that on the 23rd April 2018, 15th May 2018 and 12th June 2018, proceedings could not be held as the accused was not traceable.

Saw that on the 23rd October 2018 there appeared the accused and the prosecution advised the Court that their principal witness, Christopher Roger Marlin, had died on the 21st October 2018, as a result of which Prosecution declared that they had no further evidence.

Saw that on the 30th October 2018 defendant declared that he had no evidence to proceed and did not want to give evidence.

Heard the Prosecution and Defence agree that case could be adjourned for judgment on the basis of the evidence forwarded.

Notes that the only main evidence forwarded by the prosecution in 14 years, was that of Mr Juliano Aquilina, who stated that he had once seen accused on a motorcycle near his hotel, however was in no position to confirm whether the accused was actually the person involved in the thefts which were committed in his hotel, Garden View.

Notes that no other evidence on the accusations being levelled against the accused were produced.

In view of the above,

After having seen the accusations levelled against the accused,

After having seen Sections 263 (a), 269 (g), 270 and 339 (o) of Chapter 9.

Frees the accused from all accusations made against him.

Magistrate Francesco Depasquale

Rita Sciberras