



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

MAGISTRATE DR. MARSE-ANN FARRUGIA LL.D.

Sitting held to-day Tuesday 24th December, 2019

**The Police
(Inspector Joseph Xerri)**

vs

Radu Ghinea

The Court,

Having seen the charges brought against Radu Ghinea, 30 years of age, son of Dan and Simona nee' Poinariu, born in Botosani, Romania 18th of June 1989, residing locally at 122, Caprice Court, Triq il-Ġizimin, Swieqi, holder of the Romanian Passport Number 058207268

Charged with:

having on the twenty second (22) December 2019 at around three in the afternoon (1500hrs) in the establishment Il Bocconcino in Triq Ġorġ Borġ Olivier, San Ġiljan:

1. Committed theft, from the said establishment, of cash money in the amount of one hundred and fifty euros (€150.00) at the detriment of Il Bocconcino, which theft is aggravated by ‘person’;

Articles 261 (c) 268 (c), and 281 (a) of Chapter 9 of the Laws of Malta;

Accuse him also for having on the same date, at around five minutes to eight in the evening (1955hrs) and the previous time in the same location;

2. Committed theft, from the said establishment, of cash money in the amount of one thousand and one hundred euros (€1,10.00) at the detriment of Il Bocconcino, which theft is aggravated by ‘value’, ‘person’ and ‘time’;

Articles 261 (c) (d) (f), 267, 268 (c), 270, 279 (a), 280 (1), and 281 (b) of Chapter 9 of the Laws of Malta;

Charged further for having on the 23rd December 2019 at around half past nine in the evening inside the Malta International Airport and other locations in these islands;

3. Had in his possession the drugs (*cocaine*) specified in the First Schedule of the Dangerous Drug Ordinance, Chapter 101 of the Laws of Malta, when he was not in possession of an import or an export authorisation issued by the Chief Government Medical Officer in pursuance of the provisions of paragraphs 4 and 6 of the Ordinance, and when he was not licensed or otherwise authorised to manufacture or supply the mentioned drugs, and was not otherwise licensed by the President of Malta or authorised by the Internal Control of Dangerous Drugs Regulations (G.N.292/1939) to be in possession of the mentioned drugs, and failed to prove that the mentioned drugs was supplied to him for his personal use, according to a medical prescription as provided in the said regulations, and this in breach of the 1939 Regulations, of the Internal Control of Dangerous Drugs (G.N.292/1939) as subsequently amended by the Dangerous Drugs Ordinance Chapter 101 of the Laws of Malta;
4. Had in his possession the psychotropic and restricted drug (ecstasy) without a special authorisation in writing by the superintendent of Public Health, in breach of the provisions of the Medical and Kindred Professions Ordinance Chapter 31 laws of Malta and the Drugs (Control) Regulations, Legal Notice 22 of 1985 as amended.

The Court was requested, in case of guilt, to order Radu Ghinea to return to the victim the stolen articles, or to repay the victim the amount of money which can be established by the Court in its Decree as a compensation for the loss suffered or for any damages, in terms of Article 28H of Chapter 9 of the Laws of Malta.

The Court was requested to apply Section 533(1) of Chapter 9 of the Laws of Malta, as regards to the expenses incurred by the Court appointed Experts.

After having heard the evidence and seen all the documents submitted and all the records of the case;

After having seen the consent of the Attorney General in virtue of Section 370(4) of the Criminal Code, for this case to be heard by summary proceedings, and after having heard that the accused had no objection for the case to be so heard;

After having seen the orders of the Attorney General in virtue of sub-article two (2) of Article 22 of the Dangerous Drugs Ordinance (Chapter 101) and sub-article two (2) of Article 120A of the Medical and Kindred Professions Ordinance (Chapter 31), for this case to be heard by this Court as a Court of Criminal Judicature;

After having heard the accused plead guilty to the charge at an early stage of the proceedings;

The Court warned the accused of the consequences of registering a guilty plea and in particular that the maximum punishment for the charges brought against him is five and half years imprisonment and a fine of €3494.09 cents.

The Court suspended the sitting so that the accused could discuss with his defence lawyer whether the accused wanted to retract his guilty plea.

The sitting was suspended.

When the case was called again, the Court asked the accused whether he had enough time to consult his defence counsel and the Court also asked him what he pleads to the charges brought against him, and he pleaded guilty again.

The Court heard the oral submissions of the parties on the punishment

The Prosecuting Officer exhibited both drugs found on the accused in the same evidence bag, so that the Court orders their destruction.

The Court made the following considerations:

From the evidence brought forward and from the guilty plea filed by the accused himself, the Court concludes that the accused is guilty of the charges laid against him.

As regards the punishment, the Court took into consideration the fact that the accused admitted to the charge at a very early stage of the proceedings – actually in to-day's sitting - and the fact that he co-operated with the police;

The accused stole a total €1,250 from the shop he used to work in, and he refunded the amount of €924.70, which were found on his person, on his arrest.

After considering all the circumstances of the case, the Court is of the opinion that a punishment of effective imprisonment is not a suitable one.

Conclusion

For these reasons, the Court, after seeing Articles 261(c), (d), (f), 267, 268(c), 270, 279 (a), and 280(1) of Chapter 9 of the Laws of Malta, after seeing Part IV and Part VI, and Section 22(1)(a) and Section 22(2)(b)(ii) of Chapter 101 of the Laws of Malta, and regulation 9 of GN 292/1992, and after seeing 1-Articles 40A, 120A(1)(a), 120A(2)(b)(ii) u the Third Schedule of Chapter 31 of the Laws of Malta and Regulation 3(1) of Legal Notice 22/1985, finds the accused guilty as charged, and condemns him to eighteen (18) months imprisonment, but in the light of the considerations above-mentioned, this term of

imprisonment is being suspended for a period of four (4) years from to-day, in terms of Section 28A(1) of Chapter 9 of the Laws of Malta.

In terms of Section 28H of Chapter 9, the Court is also ordering the offender to pay the sum of three hundred and twenty-five Euro and thirty cents (€325.30) to the injured party, within the period of ten (10) days from to-day, which amount represents the balance of the amount still due to the injured party.

Moreover, the Court, is also condemning the guilty person to a fine (multa) of seven hundred Euro (€700.00), and in default of payment thereof, the outstanding amount still due shall be converted into imprisonment at the rate established by law.

In accordance with Sections 28A(4) and 28H(7) of Chapter 9 of the Laws of Malta, the Court explained in clear and simple language the meaning of this judgement to the offender, and the consequences which would follow if he fails to abide by it, that is if he commits another offence which is punishable by imprisonment within the operative period, and/or if he fails to pay the injured party the amount prescribed above within the time limit stipulated above.

The Court orders that the drugs exhibited by the Prosecution are destroyed under the supervision of the Registrar.

Magistrate

Deputy Registrar