



**COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE
MAGISTRATE DR. GABRIELLA VELLA B.A., LL.D.**

**The Police
(Inspector Joseph Xerri)**

Vs

**Adan Jama Shaban
-Omissis-**

Today, 3rd August 2020

The Court,

After having considered the charges brought against Adan Jama Shaban, twenty four (24) years of age, son of Adan Jama and Ruon Barka neè Obsiye, born in Somalia on the 1st June 1996, residing locally in Ħaż-Żebbuġ, holder of Maltese Identity Card Number 0125476(A), of having on the 18th July 2020 at around quarter past six in the morning (6:15hrs) and the previous hours in Triq San Ġorġ in St. Julians:

1. Committed theft of a mobile phone to the detriment of Camilla Rueda and/or other persons, which theft is aggravated by value - in violation of Sections 261(c) and 279(a) of Chapter 9 of the Laws of Malta;
2. And further of having on the 18th July 2020 and the previous months in these Islands lead an idle and vagrant life - in violation of Section 338(w) of Chapter 9 of the Laws of Malta;

After having considered the request by the Prosecution for the Court, in the case that it finds the accused guilty of the charges brought against him, apart from applying the punishment according to Law, to condemn the accused to the payment of expenses for the appointment of Experts in terms of Section 533 of Chapter 9 of the Laws of Malta;

After having considered the Consent by the Attorney General in terms of Section 370(4) of Chapter 9 of the Laws of Malta¹ and after having considered documents submitted by the Prosecution in particular the documents at folios 8 to 10, 12 to 14 and 17 and 18 of the records of the proceedings;

After having considered that the accused, whilst declaring that he has no objection to his case being dealt with summarily, replied that he is not guilty of the charges brought against him²;

¹ Folio 6 and 7 of the records of the proceedings.

² Folio 24 of the records of the proceedings.

After having heard testimony by PS790 Nathan Zerafa³, Camilla Rueda⁴ and David Leonardo Diaz⁵, all of whom testified on the 28th July 2020;

After having heard the accused Adan Jama Shaban, during the sitting held on the 3rd August 2020, declare that he is guilty of the charges brought against him;

After having heard the Prosecution and the Defence agree that the value of the mobile stolen from Camilla Rueda is less than two thousand Euros (€2,000);

After having heard submissions regarding punishment, in particular the submission that the accused has a serious drug addiction problem and that he is willing to receive the necessary treatment to over come this problem;

After having heard the accused reiterate his guilty plea after the Court, in terms of Section 453(1) of Chapter 9 of the Laws of Malta, warned him in the most solemn manner of the legal consequences of his guilty plea and gave him sufficient time within which to reconsider and withdraw his guilty plea;

After having considered all the records of the proceedings;

Considers:

The accused is being charged of having on the 18th July 2020 at around quarter past six in the morning (6:15hrs) and the previous hours in Triq San Ġorġ in St. Julians: (i) committed theft of a mobile phone to the detriment of Camilla Rueda and/or other persons, which theft is aggravated by value; (ii) and further of having on the 18th July 2020 and the previous months in these Islands lead an idle and vagrant life.

Initially the accused replied that he is not guilty of the charges brought against him and therefore the Court proceeded to hear testimony by PS790 Nathan Zerafa⁶, Camilla Rueda⁷ and David Leonardo Diaz⁸, all of whom testified on the 28th July 2020. During the sitting held on the 3rd August 2020, however the accused declared that he is guilty of the charges brought against him and reiterated such guilty plea even after in terms of Section 453(1) of Chapter 9 of the Laws of Malta, the Court warned him of the legal consequences of his guilty plea and gave him sufficient time to reconsider it and withdraw said guilty plea.

In view of the guilty plea by the accused the Court finds him guilty of the charges brought against him.

In so far as concerns punishment the Court took into account the fact that the accused filed a guilty plea at a relatively early stage of the proceedings and that he has a clean conviction sheet and that he co-operated with the Police. It also took into account the fact that the accused has a serious drug addiction problem and that he is willing to receive treatment to over come this problem.

³ Folio 30 to 33 of the records of the proceedings.

⁴ Folio 34 to 47 of the records of the proceedings.

⁵ Folio 48 to 53 of the records of the proceedings.

⁶ Folio 30 to 33 of the records of the proceedings.

⁷ Folio 34 to 47 of the records of the proceedings.

⁸ Folio 48 to 53 of the records of the proceedings.

Therefore after considering Sections 261(c), 267, 279(a) and 338(w) of Chapter 9 of the Laws of Malta, the Court, whilst reiterating that it is finding the accused guilty of the charges brought against him, condemns him to seven (7) months imprisonment however, since the Court is of the opinion that there are sufficient reasons which warrant that the said term of imprisonment hereby imposed be suspended, namely the guilty plea by the accused at a relatively early stage of the proceedings, the fact that the accused has a clean conviction sheet and that he co-operated with the Police, in terms of Section 28A of Chapter 9 of the Laws of Malta the said term of seven (7) months imprisonment is being suspended for a period of two (2) years from date of this judgment.

In terms of Section 28A(4) of Chapter 9 of the Laws of Malta the Court explained to the accused in plain language his liability under Section 28B of Chapter 9 of the Laws of Malta if during the operational period of this suspended sentence he commits an offence punishable with imprisonment.

Due to the serious drug addiction problem which the accused has, in terms of Section 412D of Chapter 9 of the Laws of Malta the Court is placing him under a Treatment Order for a period of two (2) years from date of this judgement, and this under the terms and conditions set out in a Decree issue today, which Decree is attached to this judgement and forms and integral part thereof.

In terms of Section 412D(4) of Chapter 9 of the Laws of Malta, the Court explained to the accused that should he fail to comply with any of the requirements or conditions of the Treatment Order, he can be subjected to a fine (*ammenda*) not exceeding one thousand and one hundred and sixty four Euro and sixty nine cents (€1,164.69).

In terms of Section 412D(3) of Chapter 9 of the Laws of Malta, the Court orders that this judgement and the Treatment Order be notified to the Commissioner of Police.

The Court further orders that this judgement and the Treatment Order be notified to the Director of Probation Services.

In so far as concerns the request by the Prosecution to condemn the accused to the payment of expenses for the appointment of Experts in terms of Section 533 of Chapter 9 of the Laws of Malta, the Court abstains from considering such request since no Experts have been appointed in these proceedings.

MAGISTRATE

DEPUTY REGISTRAR