



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

MAGISTRATE DR MARSE-ANN FARRUGIA LL.D.

Today Saturday 15th August, 2020

**The Police
(Inspector Leeroy Balzan Engerer)**

vs

Dylan Abraham Jakobus van Gelderen

The Court:

Having seen charges brought against:

Dylan Abraham Jakobus van Gelderen, 22 years of age, son of Han van Gelderen and Ellen nee' Akkerman, currently residing 135A, Triq San Albert, Gzira, holder of Dutch Passport with no: NVB0LJPK2, born in Vlissingen, Netherlands on 15/06/1998;

Charged with having, on the 14th August 2020 between two-thirty (02:30hrs) and three thirty (03:30hrs) in the morning in Elija Zammit Street, St. Julian's:

1. wilfully committed any spoil, damage or injury to or upon any movable or immovable property being an ATM, to the detriment of HSBC Bank Malta PLC which amount of damage exceeds two thousand and five hundred euro (€2500);

2. in a public place or place open to the public, being drunk and incapable of taking care of himself

Having seen the consent of the Attorney General in terms of Article 370(4) of the Criminal Code for this case to be dealt with summarily, and heard the defendant declare that he has no objection that his case be dealt with in this manner.

Having heard the evidence and saw all the records of the case and the documents exhibited.

The defendant pleaded guilty to the charges brought against him.

The Court warned the defendant of the seriousness of the charges brought against him and that the maximum punishment for these charges is four (4) years imprisonment and he has to reimburse the injured party the damages suffered.

The Court suspended the sitting so that the defendant could consult with his defense lawyer to see whether he wanted to retract his guilty plea.

When the case was called again, the Court asked the defendant whether he had enough time to consult his defense lawyer and he answered in the affirmative and when asked by the Court whether he was going to confirm his guilty plea, the defendant replied in the affirmative.

The Court heard submissions of the parties on the punishment.

The defence declared that the defendant intends to refund the injured party all damages suffered, but since he is in Malta on holiday, he has to wait for the transfer of the funds from Holland to Malta.

The Court considered that:

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 charge laid against him.

As regards punishment, the Court considered that the Prosecuting Officer declared that the defendant co-operated with the Police from the very first time a police officer spoke to him and throughout the investigations.

The Court also took into consideration that the defendant registered a guilty plea in the very first sitting of these proceedings, and declared that he is going to repay the damages he has caused.

From the evidence brought forward by the Prosecution, it results that the repairs and services on the ATM machine damaged by the defendant amount to thirteen thousand, three hundred twenty-one Euro, and seventy-three cents (€13,321.73).

Conclusion

The Court after seeing Articles 325(1)(a) and Article 338(ff) of Chapter 9 of the Laws of Malta, finds the defendant guilty of the charges brought against him, 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 two (2) years from to-day, in terms of Article 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 thirteen thousand, three hundred twenty-one Euro, and seventy-three cents (€13,321.73) to HSBC Bank Malta p.l.c., within the period of fifteen days from to-day, which amount represents the amount of damages suffered by the same Bank.

In accordance with Articles 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.

Magistrate

Doreen Pickard
Deputy Registrar