



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

**Case No. 107/2021**

**The Police  
(Inspector Lydon Zammit)  
(Inspector Stephen Gulia)  
(Inspector Roderick Attard)**

**Vs**

**Abubacarr Darbo**

**Today, 30<sup>th</sup> September 2021**

**The Court,**

After considering the charges brought against Abubacarr Darbo, twenty-four (24) years of age, son of Jancubar and Fatima, born in Basori, Gambia, on the 8<sup>th</sup> October 1996, holder of Italian Residence Permit No. I13034869, without a fixed address, of having on the 18<sup>th</sup> February 2021 between 22:00hrs and 22:15hrs, in Telghet Gwardamangia, Pietà:

1. Committed theft of a mobile phone, which theft is aggravated by violence, means, amount which does not exceed two thousand and three hundred and twenty nine Euro and thirty seven cents (€2,329.37) and by time, to the detriment of Laura Natalia Soto Zabala and/or other person/s or any other entity;
2. On the same date, time, place and circumstances, without a lawful order from the competent authorities, and saving the cases where the law authorises private individuals to apprehend offenders, arrested, detained or confined Laura Natalia Soto Zabala against her will and with the intent of extorting money or effects, or of compelling her to agree to any transfer of property;
3. On the same date, time, place and circumstances carried outside any premises or appurtenance thereof, a knife or cutting or pointed instrument of any description without a licence or permit from the Commissioner of Police;

After considering the request by the Prosecution for the Court, in the case of a finding of guilt against the accused, to order the accused to pay the expenses in regards of the experts and architects appointed in these proceedings in terms of Section 533 of Chapter 9 of the Laws of Malta;

After considering the further request by the Prosecution for the Court to apply Sections 383, 384, 385 and 412C of Chapter 9 of the Laws of Malta for the safety and protection of Laura Natalia Soto Zabala;

After considering that the accused replied that he is not guilty of the charges brought against him<sup>1</sup>;

After considering the documents submitted by the Prosecution marked Doc. “LZ1” and Doc. “LZ2” at folios 11 and 12 of the records of the proceedings;

After hearing testimony given by Inspector Stephen Gulia during the sitting held on the 3<sup>rd</sup> March 2021<sup>2</sup> and after considering documents submitted by him marked Doc. “SG1” to Doc. “SG4” at folios 22 to 28 of the records of the proceedings, after hearing testimony given by Inspector Roderick Attard<sup>3</sup>, Laura Soto<sup>4</sup> and Jonathan Aponte<sup>5</sup> during the sitting held on the 3<sup>rd</sup> March 2021 and after considering the document submitted by Laura Soto marked Doc. “GVX” at folio 37 of the records of the proceedings, after hearing testimony by PS1255 Christian Azzopardi<sup>6</sup>, PC2 Glen Ellul<sup>7</sup> and PC636 Brandon Lee Pullicino<sup>8</sup> given during the sitting held on the 6<sup>th</sup> April 2021 and after considering documents submitted by PS1255 Christian Azzopardi marked as Doc. “CA1” to Doc. “CA3” at folios 47 to 49 of the records of the proceedings and the exhibit submitted and marked Doc. “CA4”<sup>9</sup>, after hearing testimony by Court appointed Expert Dr. Lennox Vella given during the sitting held on the 15<sup>th</sup> April 2021 and after considering the transcription of the audio-visual statement given by the accused submitted by Dr. Lennox Vella and marked as Doc. “LV” at folios 56 to 100 of the records of the proceedings, after hearing testimony by PC2278 Sharonne Buhagiar<sup>10</sup> and PS991 Alexander Gauci<sup>11</sup> given during the sitting held on the 15<sup>th</sup> April 2021, and after hearing testimony by Inspector Lydon Zammit given during the sitting held on the 27<sup>th</sup> April 2021<sup>12</sup>;

After considering the Decree dated 21<sup>st</sup> June 2021<sup>13</sup>;

After considering the Note by the Attorney General dated 5<sup>th</sup> July 2021<sup>14</sup> by virtue of which he sent the accused to be tried by this Court, subject to no objection being made by him in terms of Section 370(3) of the Criminal Code, Chapter 9 of the Laws of Malta, for any and all of the crimes prescribed in terms of:

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<sup>1</sup> Folio 10 of the records of the proceedings.

<sup>2</sup> Folios 18 to 21 of the records of the proceedings.

<sup>3</sup> Folios 29 and 30 of the records of the proceedings.

<sup>4</sup> Folios 31 to 36 of the records of the proceedings.

<sup>5</sup> Folios 38 to 40 of the records of the proceedings.

<sup>6</sup> Folios 44 to 46 of the records of the proceedings.

<sup>7</sup> Folios 50 and 51 of the records of the proceedings.

<sup>8</sup> Folios 52 and 53 of the records of the proceedings.

<sup>9</sup> Folio 105 of the records of the proceedings.

<sup>10</sup> Folios 101 and 102 of the records of the proceedings.

<sup>11</sup> Folios 103 and 104 of the records of the proceedings.

<sup>12</sup> Folios 108 to 110 of the records of the proceedings.

<sup>13</sup> Folio 122 to 127 of the records of the proceedings.

<sup>14</sup> Folio 128 of the records of the proceedings.

- Articles 261(a), 261(b), 261(c), 261(f), 262(1)(a), 262(1)(c), 261(1)(b), 263, 267, 270, 275, 276, 277(b), 279(a), 280(2), 281(a), 284, 285 of the Criminal Code, Chapter 9 of the Laws of Malta;
- Articles 86, 87(c), 87(e) of the Criminal Code, Chapter 9 of the Laws of Malta;
- Articles 6, 51(7), 51(9), 55(a) of the Arms Act, Chapter 480 of the Laws of Malta;

After hearing the accused declare that he has no objection to his case being dealt with summarily and after the Articles of the Law set out in the Note by the Attorney General dated 5<sup>th</sup> July 2021 being read out;

After hearing oral submissions by the Prosecution<sup>15</sup> and by Defence Counsel<sup>16</sup>;

### **Considers:**

The accused is being charged of having on the 18<sup>th</sup> February 2021 between 22:00hrs and 22:15hrs, in Telgħet Gwardamangia, Pietà: (i) committed theft of a mobile phone, which theft is aggravated by violence, means, amount which does not exceed two thousand and three hundred and twenty nine Euro and thirty seven cents (€2,329.37) and by time, to the detriment of Laura Natalia Soto Zabala and/or other person/s or any other entity; (ii) on the same date, time, place and circumstances, without a lawful order from the competent authorities, and saving the cases where the law authorises private individuals to apprehend offenders, arrested, detained or confined Laura Natalia Soto Zabala against her will and with the intent of extorting money or effects, or of compelling her to agree to any transfer of property; (3) on the same date, time, place and circumstances carried outside any premises or appurtenance thereof, a knife or cutting or pointed instrument of any description without a licence or permit from the Commissioner of Police.

The accused replied that he is not guilty of the charges brought against him.

The Attorney General by means of a Note dated 5<sup>th</sup> July 2021, sent the accused to be tried by this Court, subject to no objection being made by them in terms of Section 370(3) of the Criminal Code, Chapter 9 of the Laws of Malta, for any and all of the crimes prescribed in terms of:

- Articles 261(a), 261(b), 261(c), 261(f), 262(1)(a), 262(1)(c), 261(1)(b), 263, 267, 270, 275, 276, 277(b), 279(a), 280(2), 281(a), 284, 285 of the Criminal Code, Chapter 9 of the Laws of Malta;
- Articles 86, 87(c), 87(e) of the Criminal Code, Chapter 9 of the Laws of Malta;
- Articles 6, 51(7), 51(9), 55(a) of the Arms Act, Chapter 480 of the Laws of Malta.

Testimonies heard and evidence submitted in these proceedings consist of the following:

**Laura Natalia Soto Zabala**<sup>17</sup> testified that whilst on her way home after work, at around 10:10p.m., she noticed a man in the street but she kept on walking with her

<sup>15</sup> Vide minutes of the sitting held on the 6<sup>th</sup> September 2021.

<sup>16</sup> Vide minutes of the sitting held on the 27<sup>th</sup> July 2021.

<sup>17</sup> Testimony given during the sitting held on the 3<sup>rd</sup> March 2021, folios 31 to 36 of the records of the proceedings.

mobile phone in her hands. She described this man as being dark skinned, he was not too tall, more or less her same height, and he was wearing a light blue hoodie and a mask. When she arrived in Telghet Gwardamangia, Pietà, she felt someone from behind her touch her shoulders and also felt a knife on her neck. She stated that: *he asked me for money and he took my mobile phone. I told him that I don't have any money and he continued with the knife and he pointed the knife this time on my hips and he continued telling me "I want money! I want money!". I was so frightened that I sat down and told him take everything what I have, my luggage and everything. He started looking and he saw that actually there was no money and he left.* Laura Natalia Soto Zabala described the knife which was pointed at her as a normal knife which one uses in a kitchen whilst eating and that it was pointed and had a black handle. Upon being shown exhibit marked as Doc. "SG2", which was a knife exhibited by Inspector Stephen Gulia during his testimony, Laura Natalia Soto Zabala recognised the exhibit as the knife which was pointed at her.

Laura Natalia Soto Zabala further stated that: *as I told you, I was sitting on the floor, I started putting my belongings in my bag once again, I kept on walking and there is a building, an office, next to my apartment [which is situated in Telghet Gwardamangia, Pietà, as per her Residence Permit a copy which is exhibited as Doc. "GVX" a folio 37 of the records of the proceedings]. So I picked my things from the floor, I put them in my bag and I started walking towards my home. I opened the door and I saw my boyfriend [whose name is Jonathan] who was inside. ... I started crying, he asked me what happened, I told him that someone stole my things, we called the police, I told the police what happened and I told him as well that I had a tracing application on my mobile phone. I started giving information to the police through this application and told the police in which position this mobile phone was.* Asked whether this application on her mobile phone was live or only recorded the location of the phone, she replied that it was live. She also stated that her mobile phone is a Samsung A30, light blue in colour. Upon being shown exhibit marked Doc. "SG3", which was exhibited by Inspector Stephen Gulia during his testimony, Laura Natalia Soto Zabala confirmed that that exhibit was the mobile phone which was stolen from her. She further stated that: *the police came and they took me to the police station, I once again told them the story what happened [the Report lodged by her with the Police, dated 18<sup>th</sup> February 2021 is exhibited as Doc. "SG4" at folios 25 to 28 of the records of the proceedings] and then, whilst they told me that they were giving me a lift back home, we passed once again through the route which I had done.* She claimed that her mobile phone cost not more than €200. Upon being asked whether she recognised anyone in the Hall, Laura Natalia Soto Zabala answered that she only recognised the Prosecuting Officer who was putting questions to her.

**Jonathan Aponte**<sup>18</sup>, Laura Natalia Soto Zabala's boyfriend, testified that on the evening when his girlfriend was involved in the incident in question, when she arrived at home she was crying and saying that someone had stolen her mobile phone. He further stated that: *I asked her how she was and she was in shock that actually I had to question her many times because she was really in a shock mode. What I did is I opened the door and I went to look outside to see if I could see someone. I didn't see*

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<sup>18</sup> Testimony given during the sitting held on the 3<sup>rd</sup> March 2021, folios 38 to 40 of the records of the proceedings.

*anyone and then we called the police from my mobile phone. A lady answered the phone, she asked where we were, if she was all right and since I have a tracing application on my mobile phone, I could see where the mobile was. We told this lady every position of this mobile phone. He stated that the mobile phone application gave a live feed and indicated the actual location of the phone. He also stated that the locations he indicated were: next to my house [which as stated above is in Telghet Gwardamangia, Pietà], further up, if I'm not mistaken, Kullegg. So we saw the position in Kullegg and he was turning to another street and then the lady informed me that this person was arrested. ... The lady continued asking if we were all right, then the police came, we went to the police station, if I'm not mistaken you [the Prosecuting Officer] came and there was another male and another female and they started questioning her what happened and then they showed her a mobile phone which my girlfriend recognised that that was her mobile phone. Upon being shown exhibit marked as Doc. "SG3", which, as already stated above, was submitted by Inspector Stephen Gulia during his testimony, Jonathan Aponte recognised it as being his girlfriend's mobile phone.*

**Inspector Stephen Gulia**<sup>19</sup> testified that on the 18<sup>th</sup> February 2021 the District Police were informed that a snatch and grab had just taken place in Telghet Gwardamangia, Pietà. The Major Crimes Unit were also informed about this case and when they went on site they found Laura Natalia Soto Zabala, holder of Identity Card Number 228713(A), who informed them that whilst she was walking in Gwardamangia Street she saw a man who approached her from behind, took out a knife, put it near her neck and asked her for money. The incident happened in Telghet Gwardamangia, Pietà. This person took her mobile phone and asked her for money, the whole time pointing the knife at her, and when he saw that she had no money on her, he left the scene. The mobile phone which was stolen was a Samsung Galaxy A30, blue in colour, and it had a tracking application installed on it by its owner Laura Natalia Soto Zabala. The phone was tracked in Triq l-Isptar, Pietà, and there the Police found a certain Abubacarr Darbo, who was recognised by the Inspector as being the accused, who upon seeing the Police, crouched down and threw something under a parked vehicle. When the Police came upon the accused he was alone. When a frisk search was performed on the accused by RIU officers, PC2 and PC636, nothing amiss was found at the time. When the Police Officers checked under the vehicle where they had previously seen the accused throw something, they found a mobile phone which turned out to be the mobile phone belonging to Laura Natalia Soto Zabala, since the same was recognised by her as being hers.

Inspector Gulia further testified that the accused was arrested and given his rights and when a more thorough search was performed at the Police General Headquarters, a knife was found in his underwear, which knife fitted the description given by Laura Natalia Soto Zabala of the knife used by the person who stopped her and stole her phone. He further stated that: *After this, Darbo Abubacarr was given again his legal rights and was informed if he wanted to speak to a lawyer which he did and he spoke to the legal aid of the time and afterwards, an audiovisual statement was released where he denied his involvement in the alleged theft. Further more, he stated that when he was asked why he was keeping a knife in his*

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<sup>19</sup> Testimony given during the sitting held on the 3<sup>rd</sup> March 2021, folios 18 to 21 of the records of the proceedings.

*underwear, he informed us that he didn't know that it was illegal and because there was an incident earlier where two Arabic men attacked him and that's why he kept a knife always on him so that he could defend himself. After this, Darbo Abubacarr was arraigned in court where he pleaded not guilty. Inspector Gulia submitted the knife found in the possession of the accused, marked as Doc. "SG2", the mobile phone found under the car near where the accused was, marked as Doc. "SG3" and the Police Incident Report concerning this case, marked as Doc. "SG4".*

**Inspector Roderick Attard<sup>20</sup>** testified that: *On the 19<sup>th</sup> of February 2021, I was informed by Inspector Lydon Zammit from the Major Crimes Unit that the on previous night and so on the 18<sup>th</sup> of February 2021, he was on night patrol duties and he was informed by district police officers at Hamrun that in Telghet Gwardamangia, Pietà, there happened to have been an armed robbery in which a female foreigner by the name of Laura Soto Zabala had her mobile phone stolen. He also informed me that there was the suspect whom had been accompanied to the general headquarter's lockup. Inspector Zammit also told me the dynamics of what had happened meaning that while Laura Soto Zabala was walking in Telghet Gwardamangia, Pietà, she had been approached by a foreigner by the name of what by had been later identified as Abubacarr Darbo and had her mobile phone stolen. Afterwards, Inspector Zammit and myself spoke on the evening of the 19<sup>th</sup> of February in which Inspector Zammit told me that during the interrogation, the suspect, Abubacarr Darbo, had refused the allegations against him. Subsequently, Mr. Darbo was arraigned on Saturday 20<sup>th</sup> February 2021 in front of duty magistrate Dr. Yana Micallef Stafrace.*

**PS1255 Christian Azzopardi<sup>21</sup>** testified that on the 18<sup>th</sup> February 2021 at around 10:10p.m., the Police were informed that an armed robbery had just taken place in Triq Telghet Gwardamangia, Pietà, where a mobile phone was stolen. He, together with Inspector Lydon Zammit and WPC2278 went on site whilst from the Police Control Room they were receiving updates as to the movements of the person who stole the phone, since the phone had a tracking device installed on it. In this regard he stated that the: *owner was tracking the device all the time and she was telling us that the perpetrator could be in Qrejten Street and then she informed us that the perpetrator moved to Hospital Street. In Hospital Street, the suspect, which I recognise here in Court, was apprehended by PC2 together with PC636 and then a search was conducted on the person because we knew he had a knife. PC1255 Christian Azzopardi further stated that he and WPC2278 searched under the cars for a knife since they had been informed that a knife was involved in the incident reported to the Police, but they did not find anything. After PC2 and PC636 took the accused to the Police General Headquarters, he and WPC2278 went to speak to Laura Natalia Soto Zabala who explained the whole incident to them. He further stated that: later on we went on site, we passed again from the streets because she works at the Convenience Store, not very far away from the place of the incident, so she explained to us from where she passed, she told us she was seeing him all the time but she didn't suspect he could ever harm her or something. On the person of Mr. Darbo we found the mobile phone and the victim told us that he was wearing a blue hoodie and he was wearing a blue hoodie. PS1255 Christian Azzopardi clarified that*

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<sup>20</sup> Testimony given during the sitting held on the 3<sup>rd</sup> March 2021, folios 29 and 30 of the records of the proceedings.

<sup>21</sup> Testimony given during the sitting held on the 6<sup>th</sup> April 2021, folios 44 to 46 of the records of the proceedings.

the mobile phone was found under a vehicle in the place where the accused was arrested, that is in Hospital Street. He also stated that at that time the accused claimed that the mobile phone belonged to him. PS1255 Christian Azzopardi was subsequently informed that upon a thorough search on the accused at the Police General Headquarters, a knife was found on his person. He proceeded to exhibit a blue hoodie which the accused was wearing when he was arrested, together with a beanie and a scarf and a mobile phone all together marked as Doc. "CA4". PS1255 Christian Azzopardi also submitted photographs of the items exhibited by him, including a photograph of the knife found on the accused during the search at the Police General Headquarters, marked as Doc. "CA1" to Doc. "CA3" at folios 47 to 49 of the records of the proceedings.

**PC2 Glen Ellul**<sup>22</sup> testified that on the 18<sup>th</sup> February 2021, at around 10:00p.m., he and his colleague PC636 were informed by the Police Control Room that there was a snatch and grab in Telghet Gwardamangia, Pietà. They went round the area looking for the suspect since they were given a description of him, which to his recollection was that he was a foreign national and that he was wearing a blue hoodie. When they arrived in Hospital Street, Pietà, they saw a person who acted suspiciously upon seeing the Police Car. This person upon seeing them crouched down. They stopped and approached him and upon being asked to provide some form of identification he only gave them a Tal-Linja Card. Upon being asked why he crouched down when he saw them, this person replied "nothing, nothing". Next to the tyre of a vehicle parked where this person was standing they saw a Samsung mobile phone and this person told them that it wasn't his. Whilst on site a frisk search was performed on this person, with a more thorough search being carried out at the Police General Headquarters where a knife was found on him. PC2 Glen Ellul further stated that in so far as concerns the knife, this was found: *I think in the left pocket near the groin. We arrested him at around 22:20pm and we gave him the caution that he was arrested and also all his rights. Then the CID officers came in site as well and went to speak with the victim and she recognised the mobile phone that it was hers. The suspect was taken to the lockup, a search was done, the knife was found there.*

**PC636 Brandon Lee Pullicino**<sup>23</sup>, testified that: *I was night duty and I was called by the control room that there had been a theft of a mobile phone and that there might have been involved a weapon which is sharp. We intensified our patrols near Pietà and near the Junior College and as the description was stated to us, a man with a blue beanie had done the offence. When we saw the man he looked scared and when we passed with the police car, he tried to hide near a car parked with the pavement. From there he acted suspiciously and we arrested him. The name of the street was Triq l-Isptar and then we did a search on site where we found a mobile phone. ... The mobile phone was found exactly near him where he tried to hide behind the car, he tried to leave it on the floor but obviously it wasn't his. We also found a handkerchief but I don't remember the colour. Later, when we took him to the lockup, the knife was found and it was hidden in his clothes. ... It was found during the strip search but I didn't do the strip search myself but I was present at the lockup and it was on his person in his clothes because the other officer stated it to us. ... as I said, we intensified our patrols in Pietà because the control room told*

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<sup>22</sup> Testimony given during the sitting held on the 6<sup>th</sup> April 2021, folios 50 and 51 of the records of the proceedings.

<sup>23</sup> Testimony given during the sitting held on the 6<sup>th</sup> April 2021, folios 52 and 53 of the records of the proceedings.

us, I don't remember exactly from which location it was stolen, but she told us that it was in that area so that's why we were patrolling the street. PC636 Brandon Lee Pullicino recognised the accused as being the person who was arrested by them in relation to the incident about which he testified.

**PC2278 Sharona Buhagiar**<sup>24</sup> testified that: On the 18<sup>th</sup> February 2021, I was working the night shift and at about 22:10hrs, Inspector Lydon Zammit was informed that there was an armed robbery at Pietà, Telghet Gwardamangia, where the aggressor stole the phone from the victim and we were also informed that the stolen phone had a tracking device. Myself, Inspector Lydon Zammit and PS 1255, together with RIU officers reported on site, we were patrolling the area trying to find the suspect and the divisional police were in contact with the victim. She told us that the phone was near Triq il-Qrejten, corner with Triq l-Isptar and when we arrived on site we found the RIU officers where they identified a suspect which corresponded with the same description the victim had told the divisional police. While we were on site, the stolen phone was found beneath a vehicle which was parked near where the suspect was stopped and the person that was stopped was a certain Abubacarr Darbo who I am recognising in Court who is the person sitting in the middle. ... Afterwards, myself, Inspector Lydon Zammit and PS 1255 reported at Hamrun police station where there was the victim and we spoke to the victim. The victim was a certain Laura Nathalia Soto Zabala with id card number 228713(A) and she stated that while she was walking home from work she noticed a man walking behind her and while she was at Telghet Gwardamangia, a male person approached her and threatened her with a knife around her neck and demanded money. She added that he grabbed her phone, searched the bag while continuing to threaten her with the knife, then he escaped and she called the police. She stated that the mobile phone that he stole was a Samsung Galaxy A30 and she provided the description of the aggressor. She stated that the man was of a dark complexion, medium height and he was wearing a blue hoodie or jacket. When she was asked to describe the knife she also stated that the knife was similar to one used in a kitchen and it was a small knife. Then myself and PS 1255 went with the victim where she showed us the exact spot where she was attacked by the aggressor. ... In Telghet Gwardamangia, Pietà.

**PS991 Alexander Gauci**<sup>25</sup>, testified that: On the 18<sup>th</sup> of February 2021, I was duty night watch at Hamrun police station and at around 22:00hrs we were informed through the control room that a robbery had occurred on a person in Triq Telghet Gwardamangia, Pietà. We proceeded on site, we found the victim, a certain Laura Nathalia Soto Zabala from Colombia with id card number 228713(A) and she stated with me that as she was walking to her home in Telghet Gwardamangia, Pietà, a man grabbed her from behind, he got out a knife and put it around her neck and started to threaten her. He started to ask for money and he took her mobile phone from her. The mobile phone was a Samsung Galaxy A30 and it had a tracking device and it started tracking in the locality of Pietà. Together with the victim there was her partner, a certain Jonathan Aponto with passport number 8521402 from Colombia and from there the victim was in shock and I took her to the police station. From that moment, RIU personnel and from the section from the Major Crimes Unit

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<sup>24</sup> Testimony given during the sitting held on the 15<sup>th</sup> April 2021, folios 101 and 102 of the records of the proceedings.

<sup>25</sup> Testimony given during the sitting held on the 15<sup>th</sup> April 2021, folios 103 and 104 of the records of the proceedings.

they were informed and they proceeded to the site of the incident and at around 22:20hrs, a certain Abubacarr Darbo from Colombia was arrested by RIU personnel from PC2 and PC636 stationed at the RIU. At the police station, Inspector Lydon Zammit came on site and spoke with the victim and from then I compiled a report 7/P/787/2021 - which he recognised as being Doc. "SG4" at folios 25 to 28 of the records of the proceedings. PS 991 Alexander Gauci further stated that he did not see the suspect on site, since upon being arrested he was taken to the Police General Headquarters.

**Inspector Lydon Zammit<sup>26</sup>** testified that: on the 18<sup>th</sup> February 2021 at around 22:00hrs, I was informed by the control room personnel that a robbery had just occurred in Telgħet Gwardamangia in Pietà. I personally wanted to speak to the victim where also the control room personnel informed me that the victim together with her fiancé was giving information about the tracking device of the stolen mobile phone. I gave the same information that I was receiving from the control room to the RIU officers that the stolen mobile phone was being tracked in several streets around Pietà and Hamrun and later I was informed by two officers from the Rapid Intervention Unit, namely PC 2 Glen Ellul and PC 636 Brandon Ellul, that they had just stopped a suspect who corresponded with the same description that the victim had given to the control room, I went immediately to the spot which was in Hospital Street where I was informed by these two officers, PC 2 and PC 636, that once they stopped the suspect, they also found a mobile phone underneath a vehicle that was just parked near the place where the suspect was arrested. The suspect was identified as Abubacarr Darbo of Gambian national who I am also recognising over here, I went to the Hamrun police station where I spoke to the victim a certain Laura Natalia Soto Zabala, holder of Maltese ID card 228713(A) where she explained that while she was walking back home from work, from the Convenience shop, she noticed a man who was walking behind her. When she arrived in Telgħet Gwardamangia, this unknown person approached her, threatened her with a knife and also demanded money. Then he grabbed her mobile phone that she was using at that time and also she gave him her handbag and he searched in her handbag. However, he didn't take anything from there. He escaped towards St. Luke's hospital where she went directly to her residence, some meters away from where the incident occurred and she informed her boyfriend where they started to track the Samsung Galaxy A30 which is her mobile phone. She described her aggressor as a man of a dark complexion, medium height and he was also wearing, according to the victim, a blue hoodie. She also explained that the knife her attacker used was similar to the one used in a kitchen. I also spoke to the two officers who stopped and arrested the suspect and they told me that while they were given the information that the stolen mobile phone was tracked in Hospital Street, they went immediately over there and they saw the suspect on one of the pavements. Once they tried to approach him, they stopped him and while they searched him, nothing suspicious was found. They only found another mobile phone. Then they went to search underneath the vehicle that was parked near the suspect and they found the stolen mobile phone. I seized that mobile phone and I confirmed with the victim that it was the same mobile phone that was stolen from her. Once Abubacarr Darbo was given all his legal rights and they were explained to him, he was escorted by the same

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<sup>26</sup> Testimony given during the sitting held on the 27<sup>th</sup> April 2021, folios 108 to 110 of the records of the proceedings.

*officers to the GHQ lockup where a strip search was conducted and a knife was found in his trousers. The same knife was seized by the police and was later given to myself for further investigations. Before the interrogation, I explained also to Abubacarr Darbo his legal rights and he opted to consult with a lawyer before the interrogation and he spoke to Dr. Josette Sultana. During the statement, Abubacarr Darbo, denied his involvement in the incident, with regards to the stolen mobile phone that was found near where he was arrested, he stated that he never saw the mentioned mobile phone and denied also that he threw the mobile phone over there. He stated that he was carrying because he was afraid of some persons that he didn't mention who they were and he explained that they previously attacked him. Subsequently, on the 20<sup>th</sup> February 2021, he was arraigned before duty magistrate Dr. Yana Micallef Stafrace, he pleaded 'not guilty' and he was remanded in custody.*

### **The first charge brought against the accused:**

As already pointed out above, the accused is being charged of having, on the 18<sup>th</sup> February 2021, between 22:00hrs and 22:15hrs, in Telgħet Gwardamangia, Pietà, committed theft of a mobile phone aggravated by violence, means, value not exceeding €2,329.37, and time to the detriment of Laura Natalia Soto Zabala.

Even though the victim did not recognise the person who detained her at knife point and stole her mobile phone, from the testimony given by the various Police Officers involved in this case, the Court is morally convinced that the accused is indeed the person who detained Laura Natalia Soto Zabala at knife point and stole her mobile phone. In fact from the various testimonies given, the following facts result in an unequivocal manner:

- When the Police Officers involved in this case were tracking the victim's mobile phone - a Samsung Galaxy A30, blue in colour - they were told that at a certain point the location of the phone was marking in Hospital Street, Pietà;
- The tracking device was giving live locations of the phone;
- Upon arriving on site, that is in Hospital Street, Pietà, the Officers of the RIU who were already patrolling the area trying to find the suspect, saw a person, the accused, who fitted the description given to them by the victim, that is a dark-skinned person of medium height and wearing a light blue hoodie;
- When the accused saw the RIU car he crouched behind a parked car and was seen throwing something under the car;
- Upon checking what there was under the parked car, the Police Officers found a mobile phone, a Samsung Galaxy A30, blue in colour, which was later recognised by the victim as being her mobile phone;
- Following a strip search of the accused at the Police General Headquarters, a knife was found on his person, which knife fitted the description of the knife given by Laura Natalia Soto Zabala and was also recognised by her as being the knife with which she was held whilst her phone was being stolen from her.

The Court is here reiterating the principle at law that *il-provi fil-kamp kriminali jistgħu jkun kemm diretti u kif ukoll indizjali, basta dawn ikunu suffiċjenti biex inisslu konvinċiment morali f'moħħ il-ġudikant lil hinn minn kull dubju raġjonevoli*

*mir-reità ta' l-imputat*<sup>27</sup>. In the light of this principle, the Court is, as already stated above, morally convinced that all the pieces of evidence set out above taken together clearly point towards the accused as being the person who on the 18<sup>th</sup> February 2021 at between 10:00p.m. and 10:15p.m., in Telgħet Gwardamangia, Pietà, detained Laura Natalia Soto Zabala at knife point and stole her mobile phone.

In his Note dated 5<sup>th</sup> July 2021, the Attorney General deems that this Court can find the accused guilty of any and all of the offences prescribed in terms of 261(a), 261(b), 261(c), 261(f), 262(1)(a), 262(1)(c), 261(1)(b), 263, 267, 270, 275, 276, 277(b), 279(a), 280(2), 281(a), 284, 285 of Chapter 9 of the Laws of Malta.

**Section 261(a),(b),(c),(f)** of Chapter 9 of the Laws of Malta essentially provides that the crime of theft may be aggravated by violence, means, amount and time.

**Section 262(1)(a)** of Chapter 9 of the Laws of Malta provides that: *(1) A theft is aggravated by "violence" - (a) where it is accompanied with homicide, bodily harm, or confinement of the person, or with a written or verbal threat to kill, or to inflict a bodily harm, or to cause damage to property; ...*

The offence set out in Section 262(1)(a) of Chapter 9 of the Laws of Malta was considered in the preliminary judgement delivered by the Criminal Court in the names **Ir-Repubblika ta' Malta v. Dominic Bonnici**, on the 5<sup>th</sup> January 2004, and in the consequent judgement in the same names delivered by the Court of Criminal Appeal on the 22<sup>nd</sup> April 2004.

The Criminal Court observed that: *l-artikolu 262(1)(a) tal-Kap.9 li jiddefinixxi r-reat ta' serq kwalifikat bil-vjolenza jiddisponi biss li jkun hemm tali kwalifika meta s-serq isir flimkien ma' omiċidju, ma' offiża fuq il-persuna jew **ma sekwestru tal-persuna** - the element which is relevant to these proceedings - eċċ, bla ma jgħid x'inhum s-sekwestru tal-persuna. L-Artikolu 86 tal-Kodiċi Kriminali, imbagħad, jgħid li jkun ħati tar-reat ta' sekwestru ta' persuna: "...kull min, bla ordni skond il-ligi ta' l-awtorità kompetenti, u barra mill-kazijiet li fihom il-ligi tagħti s-setgħa lill-privat li jarresta lill-ħati, jarresta, iżomm jew jissekwestra lil xi persuna kontra l-volontà tagħha jew jagħti l-post biex fih din il-persuna tigi arrestata miżmuma jew issekwestrata...". Illi l-Professur Sir Anthony Mamo (Notes on Criminal Law [1953 edit.] [Part. II p. 40] meta jkun qed jitratta l-element materjali tar-reat in kwistjoni jgħid:- "the words arrest" "detention" and "confinement" are not synonymous: each indicates a special manner in which an attempt can be made on personal liberty: **"il reato preveduto nell'articolo 169 (our Section 86) esiste sia quando alcuno si fermi nel mentre che agisce o camina**<sup>28</sup>; sia quando si faccia rimanere suo malgrado in quel luogo ove si trova; si quando finalmente si trasporti da un luogo ad un altro (ROBERTI - ibid, para. 323) ... **Thus a person may be arrested without being incarcerated or confined in any place**<sup>29</sup>; or may be detained in his own house without having been previously arrested.*

The Court of Criminal Appeal further observed that: *dejjem ġie ritenut mill-Qrati ta' Ġustizzja Kriminali tagħna li biex ikun hemm il-kwalifika tas-sekwestru tal-*

<sup>27</sup> Il-Pulizija v. Paul Grech, Criminal Appeal No. 242/00 delivered by the Court of Criminal Appeal on the 6<sup>th</sup> April 2001.

<sup>28</sup> Emphasis by this Court.

<sup>29</sup> Emphasis by this Court.

*persuna għall-finijiet tas-serq huwa bizzżejjed li dak is-serq isir “flimkien” (fis-sens tas-subartikolu (2) ta’ l-Artikolu 262) mal-privazzjoni fir-rigward ta’ xi persuna tal-libertà personali tagħha. Fi kliem ieħor, **ikun hemm is-sekwestru tal-persuna għall-finijiet ta’ l-Artikolu 262(1)(a) mhux biss jekk persuna tiġi meħuda minn post għal ieħor kontra l-volontà tagħha, imma anke jekk sempliċement tiġi miżmuma kontra l-volontà tagħha milli tiċċaqilaq jew tiġi msakkar x’imkien - basta però, li jkunu jikkonkorru ukoll għall-aqas iċ-ċirkostanzi, jew waħda miċ-ċirkostanzi, imsemmija fl-imsemmi subartikolu (2) ta’ l-Artikolu 262***<sup>30</sup>.

Section 262(2) of Chapter 9 of the Laws of Malta provides that: *in order that an act of violence may be deemed to aggravate the theft, it shall be sufficient that such act be committed previously to, at the time of, or immediately after the crime, with the object of facilitating the completion thereof, or of screening the offender from punishment or from arrest or from the hue and cry raised by the injured party or by others, or of preventing the recovery of the stolen property or by way of revenge because of impediment placed or attempted to be placed in the way of the theft, or because of the recovery of the stolen property or of the discovery of the thief.*

From testimony given by Laura Natalia Soto Zabala it transpires that on the night of the incident, that is on the 18<sup>th</sup> February 2021 between 22:00hrs and 22:15hrs, she was stopped by the accused at knife point in Telgħet Gwardamangia, Pietà, whilst she was on her way home from work and she was so impeded from going on her way, held always at knife point, until he stole her mobile phone and determined that she had no money on her. When these facts are considered in the light of the principles set out above, there is absolutely no doubt that the accused is to be found guilty of theft aggravated by violence in terms of Section 262(1)(a) and 262(2) of Chapter 9 of the Laws of Malta.

**Section 262(1)(c)** of Chapter 9 of the Laws of Malta provides that: *(1) A theft is aggravated by “violence” - (c) where any person **scouring the country-side and carrying arms proper, or forming part of an assembly in terms of article 63, shall, by a written or verbal request, made either directly or through another person, cause to be delivered to him the property of another, although the request be not accompanied with any threat***<sup>31</sup>.

Section 63 of Chapter 9 of the Laws of Malta provides that: *any offence committed by three or more persons assembled with intent to commit an offence, and two of whom carry arms proper, shall be deemed to be accompanied with public violence.*

From Section 262(1)(c) of Chapter 9 of the Laws of Malta, it clearly results that for this crime to subsist there must result the following elements: (a) a person scouring the country-side and carrying arms proper; **or** (b) a person forming part of an assembly in terms of Section 63; **and** (c) by a written or verbal request, made either directly or through another person, cause to be delivered to him the property of another, although the request be not accompanied with any threat.

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<sup>30</sup> Emphasis by this Court.

<sup>31</sup> Emphasis by this Court.

The incident forming the merits of these proceedings involved only the accused and Laura Natalia Soto Zabala and it happened in Telghet Gwardamangia, Pietà. This clearly shows that the incident did not happen in the country-side and at the time of the commission of the crime, the accused did not form part of an assembly in terms of Section 63. Therefore the accused cannot be found guilty of theft aggravated by violence in terms of Section 262(1)(c) of Chapter 9 of the Laws of Malta.

**Section 263** of Chapter 9 of the Laws of Malta provides that: *Theft is aggravated by "means" - (a) when it is committed with internal or external breaking, with false keys, or by scaling; (b) when the thief makes use of any painting, mask, or other covering of the face, or any other disguise of garment or appearance, or when, in order to commit the theft, he takes the designation or puts on the dress of any civil or military officer, or alleges a fictitious order purporting to be issued by any public authority, even though such devices shall not have ultimately contributed to facilitate the theft, or to conceal the perpetrator thereof.*

Asked to describe the person who held her a knife point and stole her mobile phone, Laura Natalia Soto Zabala stated that *what I remember is a dark person, he wasn't that long, he was a bit short like my height, he had a hoodie on and a mask*<sup>32</sup>. From this testimony it results that the accused is to be found guilty of the crime of theft also aggravated by means in terms of Section 263(b) of Chapter 9 of the Laws of Malta.

**Section 267** of Chapter 9 of the Laws of Malta provides that: *Theft is aggravated by "amount", when the value of the thing stolen exceeds two hundred and thirty-two euro and ninety-four cents (232.94).*

When asked about the value of her mobile phone, Laura Natalia Soto Zabala replied that it didn't cost more than €200. In the light of this reply, it clearly results that the accused cannot be found guilty of theft also aggravated by amount.

**Section 270** of Chapter 9 of the Laws of Malta provides that: *Theft is aggravated by "time", when it is committed in the night, that is to say, between sunset and sunrise.*

From evidence put forth by the Prosecution it clearly transpires that the incident forming the merits of these proceedings happened on the 18<sup>th</sup> February 2021 between 22:00hrs and 22:15hrs. This therefore shows that the accused is to be found guilty of the crime of theft also aggravated by time in terms of Section 270 of Chapter 9 of the Laws of Malta.

### **The second charge brought against the accused:**

The accused is also being charged of having on the same date, time, place and circumstances, without a lawful order from the competent authorities, and saving the cases where the law authorises private individuals to apprehend offenders, arrested, detained or confined Laura Natalia Soto Zabala against her will and with the intent of extorting money or effects or of compelling her to agree to any transfer of property.

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<sup>32</sup> Emphasis by this Court.

In his Note filed on the 5<sup>th</sup> July 2021, the Attorney General deems that this Court can find the accused guilty of the offence prescribed in terms of Section 86, 87(c) and 87(e) of Chapter 9 of the Laws of Malta.

**Section 86** of Chapter 9 of the Laws of Malta provides that: *Whosoever, without a lawful order from the competent authorities, and saving the cases where the law authorises private individuals to apprehend offenders, arrests, detains or confines any person against the will of the same, or provides a place for carrying out such arrest, detention or confinement, shall, on conviction, be liable to imprisonment for a term from seven months to two years: Provided that the court may, in minor cases, award imprisonment for a term from one to three months or a fine (multa).*

From that already observed above with regard to the charge of theft aggravated by violence in terms of Section 262(1)(a) of Chapter 9 of the Laws of Malta being directed against the accused, it clearly results that the accused is to be found guilty of the offence of illegal arrest, detention or confinement in terms of Section 86 of Chapter 9 of the Laws of Malta. However, it has to be kept in mind that this particular offence already constitutes an aggravating circumstance to the theft of the mobile phone of Laura Natalia Soto Zabala with which the accused is also being charged. Therefore, for the purposes of punishment, the charge concerning the illegal arrest, detention or confinement of Laura Natalia Soto Zabala in terms of Section 86 of Chapter 9 of the Laws of Malta is to be considered as absorbed in the first charge, that is the charge of theft aggravated by violence, means and time, brought against the accused.

Even though the Attorney General deems that the Court can find the accused guilty also in terms of Section 87(c) and (e) of Chapter 9 of the Laws of Malta, the Court observes that these particular provisions do not feature in the Criminal Code, Chapter 9 of the Laws of Malta.

It is evident that the Attorney General deems that the Court can find the accused guilty of the offence in terms of Section 86 of the Laws of Malta with the aggravating circumstances provided for under the Law. These aggravating circumstances however are enshrined in **Section 87(1)(a) to (h) of Chapter 9 of the Laws of Malta**, which Section of the Law is not indicated by the Attorney General in his note. Once Section 87(1)(a) to (h) of Chapter 9 of the Laws of Malta, or any one or more of such sub-paragraphs, has not been indicated by the Attorney General in his Note filed on the 5<sup>th</sup> July 2021, the Court is precluded from considering whether the accused is to be found guilty or otherwise of all or any of the aggravating circumstances to the offence under Section 86 of Chapter 9 of the Laws of Malta.

This observation by the Court is supported by that observed by the Court of Magistrates (Malta) as a Court of Criminal Judicature, presided by Magistrate Dr. Neville Camilleri, in the judgement in the names **Il-Pulizija v. Josef (Joseph) Sharfid, Case No. 350/12** delivered on the 28<sup>th</sup> July 2014, *din il-Qorti, madanakollu, hija marbuta bid-disposizzjonijiet tal-ligi ndikati fin-nota ta' rinviyu u ma tistax issib htija taht xi disposizzjoni tal-ligi li ma tigix hemmhekk indikata. Dan gie ritenut, fost l-oħrajn, fil-kawża fl-ismijiet Il-Pulizija v. Joseph Grima, deċiża fit-2 ta' Frar 2012 mill-Qorti tal-Magistrati (Għawdex) bħala Qorti ta' Ġudikatura*

*Kriminali. Id-deċiżjoni fl-ismijiet Il-Pulizija v. Geoffrey Montebello et mogħtija fid-19 ta' April 2013 mill-Qorti tal-Maġistrati (Malta) bħala Qorti ta' Ġudikatura Kriminali rriteniet ukoll li il-Qorti kienet prekluzi milli ssib htija taħt Artikolu partikolari tal-liġi għaliex dan l-Artikolu ma ġiex indikat mill-Avukat Ġenerali fin-nota ta' rinviu għall-gudizzju.*

In the light of the above the Court reiterates that it can only find the accused guilty of the offence contemplated under Section 86 of the Laws of Malta.

### **The third charge brought against the accused:**

The accused is also being charged of having on the same date, time, place and circumstances carried outside any premises or appurtenance thereof, a knife or a cutting or pointed instrument of any description without a licence or permit from the Commissioner of Police.

By means of the Note dated 5<sup>th</sup> July 2021, the Attorney General deems that the Court can find the accused guilty of the offence/s prescribed under Sections 6, 51(7), 51(9) and 55(a) of the Arms Act, Chapter 480 of the Laws of Malta.

**Section 6** of Chapter 480 of the Laws of Malta provides that: *Saving the provisions of article 8 no person shall carry outside any premises or appurtenance thereof, a knife or cutting or pointed instrument of any description without a licence or permit from the Commissioner.*

For all intents and purposes, **Section 8** of Chapter 480 of the Laws of Malta provides that: *Notwithstanding the other provisions of this Act or of any other law, no licence shall be required for the purpose of possessing or keeping inside any premises a knife or a cutting or pointed instrument not being a prohibited weapon in terms of article 3 or for acquiring such a knife or instrument for the same purpose.*

**Section 51(7) and (9)** of Chapter 480 of the Laws of Malta provide that: *(7) Any person who contravenes article 6 or 21 shall be guilty of an offence and shall on conviction be liable to a fine (multa) of one hundred and sixteen euro and forty-seven cents (116.47); (9) Any person who contravenes any provision of this Act or any regulations made there under shall be guilty of an offence, and unless a severer punishment is provided for under this Act or any other law, shall be liable on conviction to a term of imprisonment not exceeding three months or to a fine (multa) not exceeding six hundred and ninety-eight euro and eighty-one cents (698.81) or to both such fine and imprisonment.*

From the evidence submitted by the Prosecution it transpires that the knife used by the accused in the commission of the crime to the detriment of Laura Natalia Soto Zabala, and which knife was found on his person during the thorough search carried out at the Police General Headquarters, was a kitchen knife. That the said knife was a kitchen knife also results from the photographs - namely Doc. "CA3" at folio 49 of the records of the proceedings - exhibited by PS1255 Christian Azzopardi during his testimony given during the sitting held on the 6<sup>th</sup> April 2021. No justification has been provided by the accused as to why he had this knife in his possession and why he was

carrying such knife outside any premises or appurtenance thereof. In the light of the above it clearly results that the accused is to be found guilty of the offence in terms of Sections 6 and 51(7) of Chapter 480 of the Laws of Malta.

Even though the Attorney General also indicates Section 51(9) of Chapter 480 of the Laws of Malta, the Court does not deem that the same is in any way applicable to these proceedings.

A further Section of the Law indicated by the Attorney General in his Note filed on the 5<sup>th</sup> July 2021, is Section 55(a) of Chapter 480 of the Laws of Malta. This Section provides that: *Saving any other provisions of the Criminal Code applicable to the keeping, carrying, use, acquisition or possession of firearms, any person who - (a) at the time of committing a crime against the safety of the government or against the person (other than involuntary homicide or involuntary bodily harm) or of theft or injury to property (other than involuntary injury to property); ... has on his person any arm proper or ammunition or any imitation thereof, shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding four years, unless he otherwise proves that he was carrying the firearm or arm proper for a lawful purpose.*

The Court is of the opinion that it cannot find the accused guilty of the offence provided for under this section of the law since a kitchen knife, the kind of knife which has been used in the incident forming the merits of these proceedings, is not and cannot be considered to be an arm proper. In this regard the Court makes reference to the judgement in the names **Ir-Repubblika ta' Malta v. Allan Galea, Appeal No. 9/13** delivered by the Court of Criminal Appeal on the 26<sup>th</sup> June 2016, wherein the said Court observed that: *“armi regolari” huma definiti mill-artikolu 2 tal-Kap.480 bħala li għandhom ikollhom “l-istess tifsira mogħtija lilha bl-artikolu 64 tal-Kodiċi Kriminali u għandha tinkludi arma tan-nar kif imfissra f’dan l-artikolu”. L-artikolu 64 tal-Kodiċi Kriminali jipprovidi: “(1) Huma armi regolari l-armi kollha tan-nar, u l-armi, strumenti u l-ghodod l-oħra kollha li għandhom bħala skop prinċipali d-difiza ta’ wieħed innifsu jew l-offiza ta’ haddieħor” (2) L-armi, strumenti u ghodod oħra kollha ma jittqisux bħala armi, ħlief meta fil-fatt jiġu wżati għall-offiza jew għad-difiza u f’dan il-każ jissejġu armi irregolari”. Hemm qbil li l-arma tad-delitt f’dan il-każ kienet sikkina tal-kċina. L-Avukat Ġenerali jippretendi illi fil-każ odjern dik is-sikkina “ħadet ix-xejra ta’ arma regolari peress illi għal dak il-ħin inkluż il-ħin li kienet qed tingarr, kellha bħala skop prinċipali d-difiza ta’ wieħed innifsu jew l-offiza ta’ haddieħor”. Din il-Qorti ma tikkondividix dan il-ħsieb ta’ l-Avukat Ġenerali peress illi l-liġi tikkonsidra bħala arma regolari daww l-armi li fin-natura tagħhom stess huma intizi għad-difiza ta’ wieħed innifsu jew l-offiza ta’ haddieħor. Sikkina li l-iskop prinċipali tagħha huwa, bħalma qalet l-ewwel Qorti “li tqatta’ l-laħam, il-basal u l-patata” ma ssirx “arma regolari” għax tintuża biex jiġi kommess delitt, iżda ittqies bħala “arma irregolari”. Għalhekk l-akkużat ma setax jiġi akkużat bi ksur ta’ l-Artikolu 55(a)(b) tal-Kap.480.*

In the light of the above, the accused can only be found guilty of the third charge brought against him in terms of Section 6 and 51(7) of Chapter 480 of the Laws of Malta.

## **Punishment:**

For the purposes of punishment the Court took into account the severity of the offences of which the accused is being found guilty but it also took into account the fact that the accused is a first time offender since has a clean conviction sheet<sup>33</sup>. It also took into account the fact that the second charge in terms of Section 86 of Chapter 9 of the Laws of Malta brought against the accused is absorbed in the first charge brought against him.

## **Decide:**

Therefore, after having seen and considered Sections 17(h), 31, 86, 261(a)(b)(f), 262(1)(a), 262(2), 263(b), 270, 275 and 277(b) of Chapter 9 of the Laws of Malta and Sections 6 and 51(7) of Chapter 480 of the Laws of Malta, the Court is finding the accused: (i) guilty of the first charge brought against him, limitedly in so far as concerns the offence of theft aggravated by violence, means and time; (ii) guilty of the second charge brought against him, limitedly in terms of Section 86 of the Laws of Malta; and (iii) guilty of the third charge brought against him in terms of Sections 6 and 51(7) of Chapter 480 of the Laws of Malta, and condemns him to a term of two (2) years imprisonment.

In terms of Section 23 of Chapter 9 of the Laws of Malta, the Court is ordering the forfeiture of the knife used in the commission of the offences of which the accused is being found guilty, which knife has been exhibited as Doc. "SG2" by Inspector Stephen Guila during his testimony given during the sitting held on the 3<sup>rd</sup> March 2021, and bears Exhibit No. KA 93/2021.

Since from the records of the proceedings the costs incurred for the appointment of Dr. Lennox Vella for the purposes of transcribing the audio-visual statement released by the accused, do not result, the Court is abstaining from providing against the accused in terms of Section 533 of Chapter 9 of the Laws of Malta.

The Court is also abstaining from applying against the accused the provisions of Sections 383, 384, 385 and 412C of Chapter 9 of the Laws of Malta.

**MAGISTRATE**

**DEPUTY REGISTRAR**

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<sup>33</sup> Doc. LZ2" at folio 12 of the records of the proceedings.