



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

MAGISTRATE DR MARSE-ANN FARRUGIA LL.D.

Sitting held today Wednesday, 25th January 2023

**The Police
(Inspector Mario Xiberras)**

vs

Albert Demanuele

The Court,

1. Having seen the charges brought against Albert Demanuele, 56 years, son of Joseph and Rose nee' Attard born in Floriana on the 23rd of October 1951 and who resides at Mirabell Flats No.4 Imhar Street Saint Paul's Bay, holder of identity card having number 793551M

Charged with having on the 15th of April 2006 and in the months preceeding this date, knowingly received or purchased stolen property, misapplied or acquired by means of any offence, whether committed in Malta or abroad, or knowingly took part in any manner whatsoever, in the sale of disposal of the same.

2. Having seen the consent of the Attorney General in terms of Article 370(4) of the Criminal Code, and having seen that the defendant declared that he has no objection that these proceedings against him are conducted summarily.
3. Having heard the evidence and saw all the records of the case and the documents exhibited.
4. Having seen the note of submissions of the Prosecution, and having seen that the defence failed to present a note of submission in reply within the time-limit prescribed.
5. Having heard the evidence and having seen the report of the Probation Officer Gabriella James presented in the sitting of the 18th May 2022.
6. Having seen that in the same sitting, the parties agreed that the case can be adjourned for judgement.

The Facts

7. The main facts of which led to these proceedings can be summarized as follows:
 - (i) The Police were investigating a theft in an apartment in Saint Paul's Bay. Amongst the items stolen, there were a television set, a Melita Cable decoder and a DVD player.
 - (ii) Two persons, Jason Wynder and George Alraid were arraigned in court in connection with this theft, and they pleaded guilty of charges preferred against them.
 - (iii) Subsequently, Jason Wynder, one of the two thieves told Inspector Carmelo Magri, who was investigating the case at the time, that he had sold the above-mentioned stolen items to his boss, a certain Albert Demanuele – the defendant.

- (iv) In his statement, the defendant admitted he had accepted a television, a decoder and a DVD player from Jason Wynder as a pledge for the amount of one hundred and fifty Maltese Lira (LM150), which the latter owned him. The defendant denied he was aware that the mentioned objects were stolen. He also stated that since Wynder failed to pay him, he had sold these items to Massimo Trivisini for the amount of LM150.
- (v) Massimo Trivisini confirmed that he bought the mentioned objects from the defendant for the price of LM150, and that in turn he sold the television set for the sum of two hundred and twenty-five Maltese Lira (LM225). Trivisini was arraigned in court for receiving stolen goods, and he was found guilty of the charge preferred against him.

Considerations of this Court on the Guilt of the Defendant

- 8. Both in his statement, as well as in his evidence before this Court, the defendant admits that the television set, the Melita Cable decoder and the DVD player were in his possession, but he denies that he was aware that they were stolen items. He declares that he took them from his employee Wynder as a pledge – or as he calls it “a collateral” – for the amount of LM150, which Wynder owned him.
- 9. The Court considered that the defendant at the time was in business and he ran a restaurant. He stated under oath that he did not deem it necessary to ascertain that these items were not stolen items, because he did not buy them, but they were given to him. It is true that the defendant did not legally buy these items, but this Court has no doubt, that when he accepted them as a pledge, he was aware that there was a very good chance that Wynder will not pay him, and in that case, as he himself admitted that he did not need these items for his own use, he would have to sell them, to recoup the money owed to him. Moreover, in his testimony, the defendant stated that Wynder told him that the items belonged to his sister, but he did not know whether this is true or not.¹ This can

¹ See page 111 of the proceedings.

only mean that the defendant was well aware the items did not belong to Wynder himself, and yet he accepted them as a pledge.

10. The Court cannot but point out that it is common knowledge that a Melita Cable decoder is not transferable from one person to another, let alone sold, since the subscriber is given the decoder on loan by the service provider by a written agreement. The defendant should have been aware of this fact.
11. Another relevant fact is that Wynder had only worked for him for a couple of weeks prior to asking for the loan, and no written agreement was entered into when the loan and pledge were granted. The defendant was a businessman at the time, and he knew perfectly well the proper way such a loan should have taken place. The fact that this was not done can only mean that he was well aware that the items in question were stolen.
12. In view of the above considerations, the Court is of the opinion that the Prosecution has managed to prove its case against the defendant beyond reasonable doubt.

Considerations on Punishment

13. As regards punishment, the Court took into consideration that the defendant co-operated with the Police, in the sense that he indicated the person to whom he had sold the items. In fact the Police managed to find the decoder and the DVD player and return them to their lawful owner.
14. The criminal conduct certificate of the defendant, though not clean, is not an alarming one. He was found guilty several times by these Courts in the years between 1966 and 2011 for failing to abide by the laws and regulations on the licensing of restaurants, playing loud music in the restaurant, failure to obey Police orders and failing to keep proper copies of VAT receipts. After he retired from work as a restaurateur, over ten years ago, it does not appear that the defendant was found again guilty of any offense by these Courts.

15. From the report of the Probation Officer, it results that the defendant is now seventy (70) years old and leads an exemplary life.

Conclusion

16. For these reasons, the Court:
 1. After seeing Article 334(a) of the Criminal Code, Chapter 9 of the Laws of Malta, finds the defendant guilty of the charge preferred against him, after taking into account all the circumstances of the case, and by applying Article 22 of Chapter 446 of the Laws of Malta, is discharging him, on condition that he does not commit another offence within three (3) years from to-day.
 2. In accordance with Article 22(3) of Chapter 446 of the Laws of Malta, the Court explained in clear and simple language the meaning of this judgement to the offender.

Magistrate

Doreen Pickard
Deputy Registrar