



**The Court of Magistrates (Malta)**

**As a Court of Criminal Judicature**

**Magistrate Dr. Nadine Lia**

**B.A., LL.M(Kent), LL.D; Barrister at Law (England & Wales)**

**The Police**

**(Inspector Jonathan Ransley)**

**vs**

**Ibrahim Khan**

Today the 25<sup>th</sup> March 2023

The Court after having seen the charges in respect of Ibrahim Khan of 25 years, born in Pakistan on the 1<sup>st</sup> April 1997 son of Mustamir and Shnaz nee Bibi, residing: 102, Triq il-Wied, Msida and the holder of Pakistan passport number FK4134003

And charge him with on the 22<sup>nd</sup> of March 2023 between 12.15am and 1.00am from inside restaurant Surfside, Tower Road, Sliema

1. With the intent of committing a crime, manifested such intent by overt acts which were followed by a commencement of the execution of the

crime, **of theft**, which was not completed in consequence of some accidental cause independent of his will, and if such crime was executed it would have constituted a crime of theft aggravated by, time, amount and means to the detriment of Jeff Gambin and/or other persons.

The Court is requested that in the case of a guilty plea orders the accused to pay the expenses in regards of the experts and architects nominated in these procedures according to article 533 of Chapter 9 of the Laws of Malta.

Having seen that during the examination of the defendant in the sitting of the 25<sup>th</sup> March 2023 done in accordance with article 392(1) of the Criminal Code, the defendant pleaded guilty to the charges against him<sup>1</sup> and this after the Court repeatedly gave him the opportunity to seek legal advice from his legal counsel and after the Court was authorised to proceed nonetheless;

In view of the defendant's declaration, the Court warned him in the most solemn manner of the consequences arising out of his guilty plea and granted him a reasonable time within which to retract such guilty plea should he so wish. After the Court granted this time to the accused, and after giving him the option to seek advice from his legal counsel, the accused reiterated that he is guilty as charged.

In view of this declaration, duly reiterated, the Court has no option but to find the accused guilty as charged in accordance with article 392A of Chapter 9 of the Laws of Malta and could proceed to deliver judgment against him.

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<sup>1</sup> Page 4 act of proceedings

Having seen that there exist no valid reasons in accordance with article 392A(3) of Chapter 9 of the Laws of Malta for the Court to doubt the validity of such plea of admission, or that the accused is not guilty of the crimes with which he is charged. Therefore, the crimes are sufficiently proven.

Having seen the records of the proceedings as well as the documents filed together with the charge sheet and the particular circumstances of this case;

Having heard submissions by the parties on the punishment;

### **Having Considered**

#### **The facts of the case**

This case concerns aggravated theft from an establishment.

### **Having considered**

#### **The punishment**

The Court in its deliberations concerning the punishment took note of the following factors:

- The admission of the defendant. The defendant admitted in the first sitting and therefore, the defendant should benefit from the fact that he registered an admission during the early course of proceedings and this shall serve in his favour in the circumstances of the cases. This is in line with the principles espoused in local case law that by registering an early plea, the Court is saved from entering into unnecessary expenses as well as administratively be able to expedite matters quicker. The Court here

makes reference to the cases **Ir-Repubblika ta' Malta vs. Nicholas Azzopardi**<sup>2</sup>, **Il-Pulizija vs. Emmanuel Testa**<sup>3</sup>, as well as legal scholars **ARCHBOLD Sentencing Guidelines 2021**<sup>4</sup> and **BLACKSTONE'S CRIMINAL PRACTICE**<sup>5</sup> on this point.

- Article 142(1) tal-Criminal Justice Act 2003 in England establishes five principles that should be considered when calibrating the appropriate punishment:

*(a) the punishment of offenders (b) the reduction of crime (including its reduction by deterrence) (c) the reform and rehabilitation of offenders (d) the protection of the public (e) the making of reparation by offenders to persons affected by their offence.*

- The prosecution in its submissions to the Court on the appropriate penalty to be considered, reiterated that it was requesting an alternative to imprisonment which the defence agreed to.

The Court is not bound to apply the proposed terms of punishment by the prosecution or the defence, even when there is an agreement between the two sides.

The Court however notes that the proposed or suggested punishment is well under the minimum legal punishment for the four charges brought against the accused together with the accusation of recidivist and therefore in any case cannot consider it as a legally sound punishment.

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<sup>2</sup> Qorti Kriminali deciza 24 ta' Frar 1997

<sup>3</sup> Qorti tal-Appell Kriminali , [7.7.2002]

<sup>4</sup> Thomson Reuteurs, S-29

<sup>5</sup> Blackstone Press Limited – 2006 edition

## Decide

The Court, upon the unconditional guilty plea registered by the accused charged and after having seen articles 41(1)(a), 261, 278, 279(b) u 281(a) of the Criminal Code of Chapter 9 of the Laws of Malta, finds Ibrahim Khan guilty as charged of all the charges brought against him and condemns him to a term of effective imprisonment of **two** years imprisonment which in accordance to article 28A of the Chapter 9 of the Laws of Malta the said term is being suspended for four (4) years from today.

In terms of Article 28A(4) of Chapter 9 of the Laws of Malta, the Court explained to the accused in plain and simple language his liability under Article 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.

Furthermore, in view of the fact that no experts were appointed in this case, the Court abstains from taking further cognisance of the prosecutions requests in terms of Article 533 of Chapter 9 of the Laws of Malta.

Finally, the Court, after having seen Article 392A of the Criminal Code orders that this judgment together with the records of the proceedings be transmitted to the Attorney General within six working days in terms of law.

**Delivered today the 25<sup>th</sup> March 2023, at the Courts of Justice in Valletta, Malta.**

**Dr. Nadine Lia**  
**Magistrate**

**Lorianne Spiteri**  
**Deputy Registrar**