



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

**MAGISTRATE DR MARSE-ANN FARRUGIA LL.D.**

**Sitting held today Monday, 13th November 2023**

**The Police**

**(Inspector Zachary Zammit)**

**vs**

**Ibrahim Azzopardi Hussein**

The Court,

1. Having seen the charges brought against:

Ibrahim Azzopardi Hussein, age 43, son of Noor Hussain and Dolina Hussain nee Budge, born in the United Kingdom on the 24<sup>th</sup> November 1975, residing in Highlands, Triq il-Bosfru, San Gwann and/or 50, Whirlow Park Road Sheffield S119NP, and holder of Maltese ID Card with number 133366A

Hereby accused of having, on the 25<sup>th</sup> January 2019 and the days and months before that in various times and locations in the Maltese Islands and also in various times and locations in the United Kingdom:

1. Copied any data, software or supporting documentation to any storage medium other than that in which it is held or to a different location in the storage medium in which it is held. (Art. 337C(1), (c), 337F, 337E of Chap.9 of the Laws of Malta)
  2. Hindered or interrupted the functioning of an information system by inputting computer data, by transmitting, damaging, deleting, deteriorating, altering or suppressing such data, or by rendering such data inaccessible. (Art. 337C(1)(ee), 337F, 337E of Chap. 9 of the Laws of Malta)
  3. Installed, moved, altered, damaged, deleted, deteriorated, suppressed, destroyed, varied or added to any data, software or supporting documentation or rendering such data inaccessible. (Art. 337C(1)(g), 337F, 337E of Chap.9 of the Laws of Malta)
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2. 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 having heard the defendant declare that he has no objection that his case be dealt with in this manner.
  3. Having heard the evidence and having seen all the records of the case and the documents exhibited.
  4. Having seen the notes of submissions of the Prosecution and of the defence and having seen that the injured party did not present a note of submissions.

### **The Facts**

5. The salient facts which gave rise to these proceedings are the following:
  1. The defendant and his wife Natasha Azzopardi had divorce proceedings pending before a court in England, where the defendant resides. However, at the time, they still owned in common between them the matrimonial house in Swieqi Malta, where Azzopardi used to live with their minor children.

2. The competent Court in England had ordered Azzopardi to give defendant access to their children. So between the 21<sup>st</sup>. and the 28<sup>th</sup> December 2018 she went to England together with the children, so that the defendant could have access to the children.
3. On the very same day she returned to Malta, that is on 28<sup>th</sup> December 2018, Natasha Azzopardi filed a report in the St. Julian's Police Station, that she had found her laptop and some documents related to the divorce missing. She stated that the only other person who had access to the residence was the defendant.
4. From the CCTV footage of a residence near the matrimonial home, it resulted that on the 27<sup>th</sup> December 2018 – whilst Natasha Azzopardi was still in England with her children - the defendant had come to the residence with a Mercedes car, which belonged to Keith Sultana. When Keith Sultana was interrogated by the Police, he confirmed that he had taken the defendant from the airport to the matrimonial home, and back. Sultana also confirmed that the defendant had come out of the residence with a bag, but he could not confirm whether the bag contained a laptop.
5. After further investigations by the Police, it resulted that the laptop was bought by the defendant. Natasha Azzopardi also stated that the defendant had succeeded in deleting her emails and he had also installed some form of device in the WI-FI system of the matrimonial home, so that he could monitor the movements on her computer.
6. Hence the Police instituted these criminal proceedings against him for computer misuse.

### **Considerations of this Court on the Guilt of the Accused**

7. From the evidence presented as well as from the minute made by the defence in the sitting of the 9<sup>th</sup> February 2022, the defence is not contesting that the defendant did attend to the address mentioned in San Gwann on the 27<sup>th</sup> December 2018 between 10 o'clock in the morning and 5 o'clock in the afternoon. The parties also agree that the matrimonial home was at the time owned jointly by Azzopardi and by the defendant, whilst the laptop

belonged to the defendant, although it was mainly used by Azzopardi. The defendant was also aware of the password of the laptop.

8. In her evidence, Azzopardi alleges that the defendant accessed her Gmail and Hotmail accounts and deleted three thousand (3000) emails. She was also unable to access family photos, Master documents, and presentations used for her lectures, as she had not backed up any of these documents, since she was the only one using the laptop, and she did not foresee any reason why she should stop doing so.<sup>1</sup>
9. In support of her claim that the defendant deleted her emails, Azzopardi exhibited screenshot showing that the laptop was accessed once on the 27<sup>th</sup> December from Hal-Kirkop, Malta and on two times on a subsequent unspecified day from the United Kingdom. The Court has no doubt that this access was made by the defendant, since in his note of submissions, the defendant admitted that he had taken the laptop from the matrimonial home.<sup>2</sup> However, one has to keep in mind that the defendant is the owner of the laptop and he knew the password, as Azzopardi herself admitted in her evidence. So the mere fact that he accessed his laptop with a password which he got to know in a legal way does not constitute any of the three crimes with which he is charged. It may have constituted a different crime, in particular that of the exercise of a pretended right (*ragion fattasi*) under Article 85 of the Criminal Code, but not any of the crimes of computer misuse. However, the defendant was not charged with the crime of *ragion fattasi*.
10. Azzopardi also claims that the defendant deleted three thousand emails from her accounts. This allegation has been in no way substantiated by independent evidence. The Court would have expected such allegation to be substantiated by some form of forensic evidence, but the Prosecution has failed to produce any such evidence. Hence, this allegation cannot be said to have been proven beyond reasonable doubt.
11. Azzopardi also states that she was denied access to the data in her laptop for nearly a year, and because of this she was unable to deliver a number of lectures at the University of Malta.<sup>3</sup> It was only after the Family Court in Sheffield ordered the data extraction of her laptop, and she had to pay both her and the defendant's share, that she managed to

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<sup>1</sup> See fol. 37 of the proceedings.

<sup>2</sup> See fol. 147 of the proceedings.

<sup>3</sup> See fol. 59-64 of the proceedings.

get her data back.<sup>4</sup> Once again, these facts could possibly have constituted the crime of *ragion fattasi*, but they do not constitute any of the three crimes with which the defendant has been charged.

12. Azzopardi also alleges that her Hotmail, Gmail and Facebook were hacked for a whole month, because the defendant had put some gadget in the WI-FI router, and hence even though she repeatedly changed the passwords, the laptop was still showing the last place it was used was in England. She stated she engaged a technician to inspect the router, and he removed the router, and substituted it with a new one, and the problem was solved.
13. Francois Borg, the technician engaged by Azzopardi, stated under oath that if a WI-FI router has a Virtual Private Network (VPN), “*there’s possibility of spying you can log in on traffic*”.<sup>5</sup> However Borg also stated that he did not check whether Azzopardi’s router had a VPN connection.<sup>6</sup> He also stated that he only went once in Azzopardi’s residence and he did not find anything wrong with the system, but had advised Azzopardi that if she wants to be safe, she should remove the existing hardware and buy another switch and router, but he did not follow Azzopardi’s problems further after that single on site inspection.<sup>7</sup> Later on in his evidence he again stated that there was nothing wrong or suspicious with the Wi-fi system, except a normal malfunction which was solved by a simple resetting of the network connectivity.<sup>8</sup>
14. Borg continued explaining that Azzopardi’s main issues was the log in history, since he found Internet Protocols (IPs) accessing from the United Kingdom, and that is why he showed her how to change a password.<sup>9</sup> He also enabled the two factor authentication so that if someone else tries to use her account she will receive an SMS to alert her.<sup>10</sup> He stated that one or two weeks after this on site inspection, Azzopardi called him saying that she is suspecting that one of the accounts was still hacked, but for personal reasons he could not assist her any more.<sup>11</sup>

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<sup>4</sup> See fol. 59 of the proceedings.

<sup>5</sup> See fol. 89 of the proceedings.

<sup>6</sup> See fol. 93 of the proceedings.

<sup>7</sup> See fol. 73 of the proceedings.

<sup>8</sup> See fol. 75 of the proceedings.

<sup>9</sup> See fol. 75 and 77 of the proceedings.

<sup>10</sup> See fol. 80 of the proceedings.

<sup>11</sup> See fol. 82 of the proceedings.

15. In the light of the evidence given by the technician Francois Borg, in the best case scenario, one can say that there was a possibility that her computer was hacked, but the level of evidence of what is possible is certainly of no use to the Prosecution, which in criminal proceedings has to prove its case beyond reasonable doubt. Hence, the allegation that the defendant hacked Azzopardi's WI-FI system has certainly not been proved.

### **Conclusion**

16. In view of the abovementioned reasons, the Court finds the defendant not guilty of the charges preferred against him, and is acquitting him of the said charges.

### **Magistrate**

**Doreen Pickard**  
**Deputy Registrar**