



COURT OF MAGISTRATES (GOZO)
AS A COURT OF CRIMINAL JUDICATURE
MAGISTRATE DR. SIMONE GRECH

Case No. 36/2022

The Police

(Inspector Bernard Charles Spiteri)

Vs

Joey Hendrikus Joza Johanna Deckers

Today, the 29th February 2024

The Court;

Having seen the charges brought against Joey Hendrikus Joza Johanna Deckers holder of Dutch Passport number NVL6HP4J8 or Maltese Identity card number 303033A, aged 28 years, where he was charged with having on the 10th July 2022, at some time between 00.30a.m. and 00.50a.m. whilst he was at Mungbell Street, Zebbug, Gozo and/ or in the vicinities;

1. *Committed theft of local currency, which value does exceed two hundred, thirty two and ninety four cents (€232.94c) but those not exceed two thousand and three hundred and twenty-nine euro and thirty seven cents (€2,329.37c), which theft have been aggravated by amount, time, violence and the nature of the thing stolen to the detriment of Kadar Ahmed Ibrahim and this in breach of articles 261, 262, 267, 270 and 271 of Chapter 9;*

And also with having on the 10th July 2022, at some time between 02.30a.m. and 03.00a.m., whilst he was at Mungbell Street, Zebug Gozo and/or in the vicinities:-

- 2. Committed theft of local currency, which value does exceed two hundred, thirty two and ninety four cents (€232.94c) but those not exceed two thousand and three hundred and twenty-nine euro and thirty seven cents (€2,329.37c), which theft have been aggravated by amount, time, violence and the nature of the thing stolen to the detriment of Abdirahman Osman Ibrahim and this in breach of articles 261, 262, 267, 270 and 271 of Chapter 9;*
- 3. And also with having on the same date, time, place and circumstances at night time, disturbed the repose of the inhabitants, by rowdiness or bawling or in any other manner and this in breach of article 338 (m) of Chapter 9 of the Laws of Malta;*

The Court is being kindly requested, where it deems expedient, in order to provide for the safety of Kadar Ahmed Ibrahim and Abdirahman Osman Ibrahim or for the keeping of the public peace, in addition to, or in lieu of the punishment applicable to the offence, require the offender to enter into his own recognizance in a sum of money to be fixed by Court;

The Court was humbly requested to provide for the safety of Kadar Ahmed Ibrahim and Abdirahman Osman Ibrahim by issuing a Protection Order in accordance with the provisions of Article 412C of Chapter 9 of the Laws of Malta under such restrictions or prohibitions as the Court may consider necessary;

Having seen that this case was assigned to this Court as presided.

Having seen all the documents exhibited.

Having heard all the evidence produced.

Having seen the articles issued by the Attorney General.

Having seen that the accused has no objection that this case be dealt with summarily.

Having heard final submissions.

Having seen that this case was adjourned for judgement.

Having seen all the acts of this case.

Considers;

The Prosecution brought forth various witnesses amongst which the alleged victims, Kadar Ahmed Ibrahim and Abrirahman Osman Ibrahim. Numerous police officers gave evidence and the accused also chose to testify.

The Court took note of all the evidence presented before it.

As regards the first charge, namely that of aggravated theft to the detriment of Kadar Ahmed Ibrahim, the Prosecution did not bring sufficient proof beyond all reasonable doubt. The alleged victim himself stated under oath that he could not confirm that he saw the accused take any of his money from his vehicle. Although in his testimony, he recognized the accused and another person, he stated that he only saw Deckers opening the door of his vehicle. The alleged victim also confirmed that he had money in a box in the car but he did not know how much money was in the box. He also stated that he did not know who could have taken the money although he admitted that he saw Deckers opening the door of his car and that he was pulled out of the car by Deckers. The accused himself confirmed that he had opened the door of the alleged victim's car but he had not taken any money from the alleged victim. Nonetheless, in his testimony, the alleged victim stated that after this incident he picked up some clients and drove to Gharb and it was at that the time that he came back, that he realized that the money was missing. Consequently there can be no certainty when the money was taken and by whom. In view of all this, the Court concludes that there is not sufficient evidence for it to pronounce the accused guilty of this first charge.

As regards the second charge which consists of aggravated theft to the detriment of Abdirahman Osman Ibrahim, the Court took into consideration the evidence given by the alleged victim. Yet again, the alleged victim did not know how much money he had in his vehicle. He also testified that he saw no one taking the money from his vehicle. He also stated that he did not even remember the last time he had checked the money he had in his vehicle. Abrirahman Osman Ibrahim also confirmed on oath that he only saw the accused when the said accused was having a drink at the corner bar. In view of all this, the Court does not find the accused guilty of the second charge.

As regards the third charge which is that envisaged by article 339(m) of Chapter 9 of the Laws of Malta, the Court makes reference to the judgement given in the names of Pulizija vs Christopher Abela on the 4th October 2016 where this Court as differently composed stated:

"...il-Qorti tqis ukoll li tali hsejjes kawzati mill-istess azzjoni tal-imputat fil-binijiet imsemmija fl-imputazzjoni kienet ukoll tikkostitwixxi ksur tal-mistrieb tan-nies bi hsejjes, ghajjat jew b' mod iehor. Din hija lokuzzjoni wiesa' hafna li tinkludi facilment fiba hsejjes generati minn daqq ta' muzika li fil-hemda tal-lejl tkun mbux biss aktar facilment tinstema' izda wkoll li tiddisturba l-mistrieb ta' dak li jkun.."

The Court took also note of the judgement given by the Court of Criminal Appeal on the 3rd November 2005 in the names of Il-Pulizija Vs Victor Grech where it was outlined that:

“Illi fil-fehma ta’ din il-Qorti il-fatti rizzultanti jaqgħu pjenament tabt id-dispożizzjoni kontravvenzjonali tal-artikolu 338 (m) tal-Kodici Kriminali li tgħid li hu hati ta’ kontravvenzjoni min “ bil-lejl, jikser il-mistrieħ tannies bi hsejjes jew għajjat jew b’ mod iebor”.

Certament li jekk detentur ta’ zjiemel iħallih iħokk, jobrox jew iħabbat ma ħajt diviżorju li warajh jew fuqu jgħixu in-nies ma tul il-lejl, dan jaqa’ tabt din ilkontravvenzjoni. Terga’ u tgħid li rriżulta li dan hu każ ta’ nuisance, kontinwu, gravi w mhux faċilment tollerabli, għax ma jħallix il-ġirani jistrieħu fil-bin talmistrieħ legittimu tagħhom.

Illi l-buon vicinat li qed jinvoka l-appellant l-ewwel ma japplika hu għalih billi hu z-zjiemel tiegħu li qed jiddisturba l-ħwiet ta’ bil-lejl li l-ħwerelanti għandhom dritt għalih go darhom.

Għalhekk din il-Qorti qed tirrespingi l-aggravji li huma relatati mas-sejbien ta’ ħtija.”

The Court took note of how the incidents took place and also the fact that it transpired that a certain amount of loud noise and rowdiness was caused by these encounters. Therefore, the Court finds the accused guilty of the third charge.

Decide

For the reasons above mentioned, the Court does not find the accused guilty of the first and second charges whilst after taking note of Article 338(m) of Chapter 9 of the Laws of Malta finds the accused guilty of the third charge and reprimands him.

(sgd) Dr. Simone Grech
Magistrate

(sgd) Diane Farrugia
D/Registrar

True Copy

f/Registrar