



**Court of Magistrates (Gozo)**  
**AS A COURT OF CRIMINAL JUDICATURE**  
**Magistrate Dr. Jean Paul Grech B.A., LL.D**  
**M.Juris (Int. Law), Adv. Trib. Eccl. Melit**

**JUDGEMENT**

Today, Tuesday, the sixteenth (16<sup>th</sup>) of July 2024

Case Number 147/2023

**The Police**

(Superintendent Bernard Charles Spiteri)

VS

**Attila Hegyi**

The Court,

Having seen the charges brought against **Attila Hegyi**, holder of identity card number 258682(A), for having on the thirtieth (30<sup>th</sup>) November 2022 and previous days at Mermaid Court, Flat 2, Triq il-Mungbell, Żebbug, Gozo without intent of stealing or breaching the law but only

to exercise a right he pretended that he had, kept personal belongings in his possession to the detriment of Judit Eva Khetynger holder of identity card number 353098(A).<sup>1</sup>

Having seen that the case was assigned to this Court as presided following an order dated nineteenth (19<sup>th</sup>) day of February 2024 issued by the Chief Justice in terms of Article 11(3) of Chapter 12 of the Laws of Malta and Article 520 of Chapter 9 of the Laws of Malta;

Having seen the minutes of the sitting of the ninth (9<sup>th</sup>) of April 2024, wherein the Prosecution, the Parte Civile and the Defence exempted the Court from the need of hearing again the evidence already tendered and from resubmitting the documents filed till that date;

Having seen the evidence compiled, the documents exhibited and all acts of the proceedings;

Having heard the evidence and final submissions of the parties;

Considers;

The facts of the case are as follows:

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<sup>1</sup> Article 85(1) of Chapter 9 of the Laws of Malta.

On the thirtieth (30<sup>th</sup>) of November 2022 the *parte civile* Judit Eva Khetynger reported at the Victoria Police Station that she had broken up with her boyfriend some months before and that she had moved out of the apartment where they were living together. The apartment's address was Mermaid Court, Flat 2, Triq il-Mungbell, Żebbuġ, Gozo. The complainant informed the police that she had taken out most of her belongings but she still had some personal belongings in this same apartment. Attila Hegyi was refusing to hand these items to her.

The Police explained to complainant that this was a civil matter and that she should speak to a lawyer regarding this issue. She informed the Police that she was not in a position to afford a lawyer because at that point in time she was unemployed. The complainant handed over to the police a list indicating the items belonging to her. The Police got in touch with Attila Hegyi and spoke to him about this matter. He denied that he was holding items belonging to his ex-girlfriend. The Police then proceeded to issue charges against the accused.

Considers;

- **The Charge – Article 85(1) of Chapter 9**

For a finding of guilt under article 85(1) of Chapter 9,<sup>2</sup> it is essential to prove that the complainant was in possession of something and that he or she was divested of this possession without his or her consent and this as a result of a deliberate action committed by the offender.

From an examination of the facts of this case, it is clear that the items identified by the *parte civile* were in the apartment which the accused and the *parte civile* used to share together in Żebbuġ, Gozo whilst they were cohabiting. Eventually the relationship between the two turned sour. The *parte civile* decided to call it a day and started doing the necessary preparations to move out of the apartment where she was living. The relationship ended in January 2022. However, it was only in August 2022 that she moved out of the apartment completely and she handed back the keys of the same to the accused towards the end of August 2022 and beginning of September 2022.

The Court is being asked to investigate whether on the thirtieth (30<sup>th</sup>) November 2022 and the previous days the accused forcefully divested the complainant of possession of the items listed in the document at folio 14.

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<sup>2</sup> Article 85(1) of Chapter 9 stipulates that: *“Whosoever, without intent to steal or to cause any wrongful damage, but only in the exercise of a pretended right, shall, of his own authority, compel another person to pay a debt, or to fulfil any obligation whatsoever, or shall disturb the possession of anything enjoyed by another person, or demolish buildings, or divert or take possession of any water-course, or in any other manner unlawfully interfere with the property of another person, shall, on conviction, be liable to imprisonment for a term from one to three months.”*

After examining the acts of this case, the Court concludes that it cannot be said that the accused effectively divested the complainant of the possession of the items indicated by her as per the charge brought against him. This for the following reasons:

(a) on the thirtieth (30<sup>th</sup>) of November 2022 and the previous days, it cannot be said that complainant still had possession (as opposed to ownership) of the items still situated inside the apartment. This because she had already returned the keys of the apartment to the accused during the first (1<sup>st</sup>) week of September. By returning the keys, she relinquished possession of any items inside the apartment. The fact that the keys were returned is confirmed both by the *parte civile* herself as well as the accused. On being asked what she had done with the keys to the apartment, the *parte civile* replied:

*“Witness: I gave him back.*

*Advocate Dr Joshua Grech: you gave him the keys.*

*Witness: Yes.*

*Advocate Dr Joshua Grech: When was that ?*

*Witness: I think it was still in August.*

*Advocate Dr Joshua Grech: It was still in August two thousand and twenty-two (08/2022).*

*Witness: Yes.”<sup>3</sup>*

During his testimony the accused also explained the following:

*“Advocate Dr Joshua Grech: So as regards to the keys, you heard Miss Khetyngen reply. So, is she correct on that statement about the keys, did you exchange, did she give you ?*

*Witness: She gave me voluntarily by having a deal that only one bag left but or I throw in the rubbish or she come back and throw in the rubbish and I told her ‘No need to come back let’s finish it, I will throw’ and she gave me the keys in that moment.”<sup>4</sup>*

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<sup>3</sup> Fol. 25 of the records of the case.

<sup>4</sup> Fol. 29 of the records of the case.

Hence if complainant did no longer have possession of the items indicated in the list as they were in an apartment the keys to which she had returned, it cannot be said that she was divested of possession of these items by the accused without her consent! You cannot be divested of something which you do no longer enjoy or have in your possession. It should be made clear that the Court is in no way implying that by having renounced possession, the *parte civile* has also renounced her ownership rights over these items.

(b) secondly, as pointed out the keys to the apartment were handed voluntarily by the complainant to the accused. It was not the case wherein the accused changed the locks to the apartment, as a result of which the complainant was precluded from entering the apartment and from taking her belongings. If the complainant still had items which she needed to take out of her apartment, it did not make sense for her to return the keys of the apartment. The fact that she voluntarily returned the keys to the apartment indicates that she had taken all items she wanted to take at that point in time. Otherwise, she would have kept the keys until she effectively took all the items including those items listed at folio 14. There were no obstacles whatsoever which precluded the *parte civile* from removing from the apartment the items she listed before handing the keys.

It is clear that months after she had handed over the keys of the apartment to the accused, she had a change of heart and requested the accused that she be given the items which she had not picked up before returning the keys. The accused however did not accede to her request. This refusal however cannot lead to a finding of guilt under article 85(1) of Chapter 9 as at that point in time the *parte civile* had no longer any possession of the items she was requesting. The story would have been different had the accused changed the locks of the apartment when the *parte civile* had still access to it, thus blocking her access to the same making it impossible for her to retrieve the items she wanted.

**The Court considers that the current issue between the parties is a purely civil issue which should have been dealt with by the civil courts via the appropriate procedures. This matter should have never ended up before this Court and wasted this Court's time since practically the parties are disputing ownership of items which they had when they were cohabiting. The dispute between them is purely and simply who is to get what from the list indicated by the *parte civile*. The Court directs the parties and their lawyers to refer the matter to the competent civil courts for resolution.**



- **Decide**

Consequently for the reasons outlined above the Court is not finding the accused guilty of the charge brought against him and is consequently acquitting the accused from this charge.

**Dr. Jean Paul Grech**

**Magistrate**

**Joseph Grech**

**Deputy Registrar**