



**IN THE COURT OF MAGISTRATES
AS A COURT OF CRIMINAL JUDICATURE**

MAGISTRATE DR. ANN MARIE THAKE
LL.B., Adv. LL.M., LL.D.

Today, the 31st of October 2024

The Republic of Malta
vs
Mursal Aden Diriye

Case No. 829/2024 AMT

The Court,

Having seen the charges against **Mursal Aden Diriye**, born in Somalia on the 5th of October 2024 and holder of the identity card with the number 0111567A, whereby he was accused of:

Around the time of five in the morning (5.00am) and six in the morning (6.00am) on the fifth (5th) of October of the year two thousand and twenty-four (2024) in Triq Spinola, San Ġiljan and/or other places on the Maltese islands:

1. Committed theft from inside a car of money and various objects, which theft is aggravated by time, the kind of thing stolen and by value, the value of which does not exceed the sum of two thousand, three hundred and twenty-nine euro and thirty-seven cents (€2,329.37), to the detriment of Carlos Jose Lozani Carvajal and/or another person/persons, and/or another entity/entities;

On the fifth (5th) of October of the year two thousand and twenty four (2024) and the previous months on the Maltese islands of:

2. Leading an idle and vagrant life

And furthermore of:

3. Being a recidivist in accordance with articles 49, 50 and 289 of Chapter 9 of the Laws of Malta after a judgment/judgements given by the Court of Magistrates of Malta which is definitive and cannot be changed.

The Court was also requested, in case of a finding of guilt, to:

- i. Order the offender to return to the injured party anything which he has stolen or which he knowingly received or obtained by fraud or other unlawful gain to the detriment of that injured party by or through the offence, or to pay that party an amount of money as may be fixed by the Court as compensation for such loss as aforesaid or for any damage or other offence or damage in terms of article 15A and 28H of Chapter 9 of the Laws of Malta;
- ii. Order the accused to pay, besides the fines established by the law, the expenses related to the appointment of experts, if any, as provided in article 533 of Chapter 9 of the Laws of Malta.

Having heard, during the sitting held on the 31st of October 2024, the accused admit to the charges brought against him even after the consequences of the guilty plea were explained to him and after the accused was given reasonable time to reconsider.

Having heard the parties' submissions on punishment.

Considers;

Having heard the defendant plead guilty to all charges proffered against him, while duly assisted by his lawyer, the Court considered that all charges have been sufficiently proven and the accused is guilty of the same.

With regards to the punishment, the Court has taken into consideration the declaration made by the prosecution and the defence to the effect that the parties were agreeing that the suitable punishment in the circumstances is a term of two years effective imprisonment, and a restitution order in favour of the victim. Having taken into consideration the accused's early guilty plea and all the circumstances of the case, as well as the increase in punishment contemplated in the law due to recidivism, and the prohibition of awarding punishment in its minimum contemplated in article 280(1) of Chapter 9 of the Laws of Malta, the Court agrees that a term of two years effective imprisonment is the most suitable punishment in the circumstances, together with a restitution order of two hundred euros (€200) in favour of the victim so that he may be compensated for the money which was stolen from him.

Decide

For these reasons the Court, after having seen articles 261(c), 261(f), 261(g), 271(g), 267, 270, 279(a), 280(1), 338(w), 49, 50 and 289 of Chapter 9 of the Laws of Malta, finds the accused guilty of all charges proffered against him and condemns him to two (2) years imprisonment.

In terms of article 15A of Chapter 9 of the Laws of Malta, the Court orders the accused to pay Carlos Jose Lozani Carvajal the sum of two hundred euros (€200) within two months from the date of this judgment.

The Court orders that, in accordance with article 392A(2) of Chapter 9 of the Laws of Malta, the Attorney General is given access to a scanned copy of the acts of the proceedings and to a scanned copy of the judgment within six (6) working days.

Ann Marie Thake
Magistrate

Ylenia Spiteri
Deputy Registrar