



THE COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE
MAGISTRATE DR. MONICA VELLA LL.D.; M. JUR.

The Police

(Inspector Joseph Mallia

Inspector Jessica Gixti)

Vs

Musah Ahmed

Compilation Number 9660/2024

Today the 29th April, 2025

The Court,

Having seen the charges brought against:

Musah Ahmed thirty seven years old, son of Ahmed Sheink and Zaina born in Kumasi on 06/03/1987 and residing at 77, Hal-Warda Street, Attard, Ghana passport number G3794757,

Accused that on the 21st of November 2024, around 06:00hrs to 06:45hrs in the ‘Villa Cara’, G.F. Agius De Soldanis Street, Birkirkara and or in other parts of the Maltese Islands;

1. Wilfully committed any spoil, damage or injury to or upon any movable or immovable property, to vehicles bearing registration number CBW 015 of make BMW and to vehicle bearing registration number ICL 126 of make Toyota Hiace for the damages of the owners mentions vehicles and to the property Villa Cara, G.F. Agius De Soldanis Street Birkirkara, owner Jeffrey Debattista which amount of the damage exceeds two thousand and five hundred euro (€2,500), mentioned under the Chapter 9, Article 325(1)(a) of the Criminal Code of Malta;
2. Wilfully disturbed the public good order or the public peace, mentioned under the Chapter 9, Article 338(dd) of the Criminal Code of Malta;

This Court was humbly requested in the event that Article 15A, of Chapter 9 of the Laws of Malta apply, regarding the offender to make restitution to the injured party ai termini the same provision Article 15A, of Chapter 9 of the Laws of Malta;

Together with, provided the Court is satisfied that proper arrangements have been made or can be made for treatment, for the Court to make an order (hereinafter in this article referred to as a “treatment order”) requiring a person to submit to treatment subject to the conditions which the Court may deem appropriate to lay down in the order;

Provided that where any person is convicted with an offence, a treatment order by the Court to be made with or without the consent of the convicted person and in the case of a person accused with an offence, a treatment order may only be made with the consent of the accused, Article 412D (1) of Chapter 9 of the Laws of Malta;

The Court was also gently requested to in any subsequent order, sentence the person convicted or the persons convicted, jointly or severally, to the payment, wholly or in part, to the registrar, of the costs incurred in connection with the employment in the proceedings of any expert referee, including such expert within such period and in such amounts as shall be determined in the judgment under Article 533 of Chapter 9 of the Laws of Malta.¹

Having seen that the accused upon arraignment informed the Court, that he does not understand the Maltese Language but understands the English Language. The Court thus ordered that the proceedings are conducted in the English language.²

¹ Folio 3 and 4 of the file.

² Folio 9 of the file.

Having seen that the accused pleaded not guilty to the charges brought against him.³

Having seen the Attorney General's consent under Article 370(4) of Chapter 9 of the Laws of Malta.⁴

Having seen the conviction sheet of the accused⁵.

Having heard the submissions by the parties

Having seen and noted all the acts of the proceedings.

Having heard the witnesses brought forward.

Having considered all the evidence and documents brought forward.

Having heard the submissions of the parties during the sitting of the 2nd April 2025.⁶

Having seen that the case was put off for judgement for today.

Considered:

Facts in Brief.

The case involves allegations by the injured party that the accused caused voluntary damages to complainant's property and disturbed the public peace and order. This incident happened at Birkirkara on the 21st November 2024.

³ Folio 12 of the file.

⁴ Folio 13 of the file.

⁵ Folio 16 of the file.

⁶ Folio 173 and 174 of the file.

Evidence

Jeffrey Debattista gave evidence on the 19th December 2024 and recalls that the accused worked at his house. He stated that the accused committed various damages to his property on the 21st November 2024. He held that the accused came when he and his family were having breakfast and created havoc. He started banging on the door, threw the outdoor chairs into the pool and also damaged the outside electricity and also the gas and mains switch box. He confirmed that he broke the electricity meter as well together and also damaged his car, BMW model, registration number CBW 015.⁷ He presented a number of documents in relation to his testimony.

Matthew Cilia gave evidence on the 19th December 2024. He confirmed that he was informed by Jeff that the accused was damaging his villa. He went on site with his Toyota Hais, registration number ICL 126 to try to calm the accused down. He testified that the accused damaged his vehicle before he ran away.⁸

PS 627 Daniel Gauci gave evidence on the 19th December 2024 and explained his role in the investigations. He went on site and noted several damaged items, including those in the two vehicles.

Dr. Rachel Taylor East gave evidence on the 8th January 2025 and stated that she is a consultant psychiatrist at Mount Carmel Hospital. She held that the accused was admitted at the hospital on the 22nd November 2022 because of bizarre, paranoid and aggressive behaviour. She said that the accused had a drug induced psychosis and was treated with anti psychotic medication and

⁷ Folio 52 of the file.

⁸ Folio 70 of the file.

was released on the 3rd December to police custody.⁹ She stated that there was a change in his behaviour to the better in view of the medication given. She gave a brief description of the term psychosis and declared he was admitted he was very distressed and aggressive. She declared that when he was discharged he was fit for interrogation.¹⁰

Cross examined she confirms that although he was admitted on the 22nd he came under her care on the 25th. His urine test was positive to cannabis when he was admitted. She confirmed that the treatment took a number of days. She states that drug induced psychosis can resolve even without treatment, some treatment on some individuals take longer than others and some individuals do not respond to medication. His case was quite severe since he needed a secure ward. She disagrees that psychosis starts as mild, increases in severity and then declines. It is however likely that the day before he was under the same condition. She stated that psychosis is a very serious mental disorder.

The witness declared that socio-economic factors do have an influence on psychotic illnesses such as schizophrenia.¹¹ Migration puts you at a higher risk of psychosis. She confirms that he had psychosis on admission and for the days following that.

He was not discharged when he was in a state of psychosis. She did not investigate his background.

Dr. Aloisia Camilleri gave evidence on the 8th January 2025 and confirmed that accused was admitted on the 22nd November 2024. After a few days he

⁹ Folio 95 of the file.

¹⁰ Folio 97 of the file.

¹¹ Folio 100 of the file.

was transferred to another ward since he was getting better. She states that she is a consultant psychiatrist in the multi purpose unit which is a high security ward. People admitted there need intensive care. Mr. Ahmed was very agitated and was not safe for him or the other patients to be kept in the general ward.¹² Patient was experiencing auditory hallucinations. His *‘voices were telling him to help people to leave Malta and to return to Italy.’* His urine test was positive for cannabis which can remain positive for a long time. Patient admitted that he consumed cannabis a short time before so the psychosis was induced by it as it was resolved shortly after.¹³

Cross-examined she confirms that if psychosis is genetic it does not resolve within days, even intense stress causes psychosis. The patient’s psychosis was severe. She confirms that the patient improved within days. He responded to the treatment within 24 hours, which is a very short time in psychiatry.¹⁴ She is very confident that the fact that he smoked cannabis before the incident caused him to become psychotic.

She confirmed that the patient said that he could not remember what had happened.

She explained that with psychosis there is usually no memory loss. So a patient who is psychotic can usually remember what he has been going through.¹⁵ Besides psychosis, cannabis can cause problems with forming memories.

¹² Folio 108 of the file.

¹³ Folio 108 of the file.

¹⁴ Folio 111 of the file.

¹⁵ Folio 113 of the file.

Kristal Debattista gave evidence on the 31st January 2025 and she recounted her ordeal when the accused appeared unannounced at their residence in the morning. She declared that he started to bang on the doors and throw chairs. Her husband called the police on 112. He was speaking not in Maltese nor in English. She recalls that the electrician with whom the accused worked called in and tried to calm him down but the accused also damaged his van.¹⁶

Under cross examination she confirmed that she went up for shelter to the roof but was concerned about her husband who was in the balcony. She went upstairs on the roof with her three kids. The accused was on the ground floor and Matthew the electrician tried to calm him down.

Dr. Christopher Scerri gave evidence on the 31st January 2025 and stated that vehicle ICL 126 belonged to Matthew Cilia while CBW 015 was registered on Jeffrey Debattista.¹⁷

Carl Rausi gave evidence on the 31st January 2025 and confirmed the document at folio 27 of the proceedings.¹⁸

Andrea Albe gave evidence on the 31st January 2025 and confirmed folio 20 of the proceedings.¹⁹

¹⁶ Folio 120 of the file.

¹⁷ Folio 122 of the file.

¹⁸ Folio 132 of the file.

¹⁹ Folio 134 of the file.

Joshua Cilia gave evidence on the 31st January 2025 and confirmed folio 29 of the proceedings.²⁰

PC 2174 Silvana Bellia gave evidence on the 12th February 2025 and held that she reported on site to investigate the case. She held that she went to arrest the accused and in his hand he had a screwdriver and a gas pipe with the regulator. He had also a book in his hand. She arrested him and the accused told her '**Don't take the Koran from me**'.²¹ The officer confirms that he had a book.

Jeffrey Sciberras gave evidence on the 12th February 2025 and he confirms folio 30 of the proceedings.²² He also confirms the photos exhibited.

Inspector Joseph Mallia gave evidence on the 25th February whereby he recounts his role in the investigation and also confirms the statement given by the accused.²³

Cross examined he stated that when the accused was being interrogated the behaviour of the accused was normal. He requested medical assistance but the police felt that it was not needed at the time.

The accused testified on the 25th March 2025 after being duly cautioned and given his rights according to law. He stated that he was not in a mood when he was arrested but he thinks that he had smoked marijuana. He told them that he went to Marsa and one of his friends gave him marijuana. He stated that the owner of the house is a very good man and he buys him things. He

²⁰ Folio 137 of the file.

²¹ Folio 140 of the file.

²² Folio 142 of the file.

²³ Folio 154 of the file.

never did bad things while he was in Malta. He stated that at prison they gave him medicine to sleep.²⁴

Cross examined he confirmed that it is not correct if one breaks things belonging to others. He stated that when he went to the house he was not seeing clearly. He was not aware of what he was doing. At the prison they told him that it is not marijuana but it is synthetic. He states that something dragged him there. The house has no “kancell”.²⁵ He confirms that he works at the back of the place. He confirmed that he did the lights at the back and asked if he damaged those same lights he stated that “it is not in my clear eye.”.

Considered:

The accused is being charged of voluntary damages and for disturbing the public peace and order under sections 325(1)(a) and 338(dd) of the Criminal Code. Section 325(1)(a) reads:

325. (1) Whosoever, by any means other than those referred to in the preceding articles of this Sub-title, shall wilfully commit any spoil, damage or injury to or upon any movable or immovable property belonging to any other person, shall, on conviction, be liable -(a) if the amount of the damage exceeds two thousand and five hundred euro (€2,500), to imprisonment for a term from eighteen months to four years.

There are no issues about the fact that it was the accused who caused the damages claimed by the complainants on the 21st November 2024. His only

²⁴ Folio 165 of the file.

²⁵ Folio 170 of the file.

defence is that he is claiming intoxication under the terms referred to in Article 34 of the Criminal Code. The relevant section reads as follows:

34.(1) Save as provided in this Article, intoxication shall not constitute a defence to any criminal charge.

(2) Intoxication shall be a defence to any criminal charge if –

*(a) by reason there of the person charged at the time of the act or omission complained of was incapable of understanding or volition **and the state of intoxication was caused without his consent by the malicious or negligent act of another person***²⁶; *or*

*(b) the person charged was by reason of the intoxication **insane, temporarily or otherwise***²⁷, *at the time of such act or omission.*

(3) Where the defence under sub-article (2) is established, then, in a case falling under paragraph (a) thereof, the person charged shall be discharged, and, in a case falling under paragraph (b), the provisions of articles 620 to 623 and 625 to 628 shall apply.

(4) Intoxication shall be taken into account for the purpose of determining whether the person charged had formed any intention specific or otherwise, in the absence of which he would not be guilty of the offence.

(5) For the purposes of this article "intoxication" shall be deemed to include a state produced by narcotics or drugs.

Considered:

²⁶ Emphasis of this Court

²⁷ Emphasis of this Court

The defence quotes the judgement by the Court of Appeal **Il-Pulizija vs Spiridione Costa** (Appel Number 5/2016) decided on the 3rd May 2019 per Honourable Madame Justice Edwina Grima.

The relevant part of the judgement is the following:

“Issa l-appellant jilmenta illi ghalkemm l-Ewwel Qorti ikkoncediet illi huwa kien fis-sakra fil-mument tal-kummissjoni tad-delitti imputati lilu, madanakollu ma qisitx dina l-iskriminanti bhala difiza favur tieghu. Illi jibda biex jinghad illi huwa principju tad-dritt penali illi s-sokor ma jistax jingieb bhala eccezzjoni kontra akkuza kriminali.

L-eccezzjonijiet ghal dina r-regola jinsabu fis-sub-inciz (2) ghal-artikolu 34 tal-Kodici Kriminali:

(2) Is-sokor jista' jingieb bhala eccezzjoni kontra akkuza kriminali kemm-il darba - (a) minhabba f'hekk il-persuna akkużata, fil-waqt tal-att jew tan-nuqqas in kwistjoni, ma kinitx kapaċi li tifhem jew li jkollha volontà u kienet tinsab fi stat ta' sokor bla ma riedet hija, bl-egħmil doluż jew negligenti ta' persuna oħra; jew (b) il-persuna akkużata, minhabba s-sokor, kienet fi stat ta' ġenn, temporanjament jew xort'oħra, fil-waqt ta' dak l-att jew ta' dak in-nuqqas.

(3) Jekk l-eccezzjoni taħt is-subartikolu (2) tiġi ippruvata, il-persuna akkużata, meta l-każ ikun jaqa' taħt il-paragrafu (a), tiġi illiberata u, meta l-każ ikun jaqa' taħt il paragrafu (b), iġhoddu d-dispożizzjonijiet tal-artikoli 620 sas-623 u 625 sas-628.

(4) L-istat ta' sokor għandu jitqies sabiex jiġi stabbilit jekk il-persuna akkużata ienitx ifformat l-intenzjoni, speċifika jew xort'oħra, li mingħajrha ma kinitx tkun ħatja tar-reat.

Illi gie mghallem illi: dawn l-eccezzjonijiet ghandhom jigu interpretati u applikati ristrettivament. Meta jigi ppruvat li persuna tkun fi stat ta` sokor volut minnha, qabel ma tigi accettata l-eccezzjoni taht l-artikolu 34(4), il-Qorti ghandha tara u tezamina jekk minkejja dak l-istat ta` sokor, jew stat iehor approssimattiv, li forsi seta` b'xi mod jinnewtralizza l-possibilita` ta` intenzjoni partikolari, kienx hemm il-possibilita` ta` intenzjoni ohra. Ghandu jigi ezaminat jekk l-appellat kiexn fi stat li ma setax ikollu l kapacita` li jifforma intenzjoni ghal reat partikolari, izda kellu l-kapacita` li jifforma intenzjoni ghal reat iehor. Sabiex jigi invokat l-artikolu 34(4) b'success, mhux bizzejjed li jirrizulta li l-persuna imputat tkun fis-sakra.

Biex dan l-istat ta` sokor ikun dirimenti, jehtieg li l-Qorti tkun sodisfatta li, fil-hin tal-kommissjoni tad delitt, ma kien jaf x'qed jaghmel jew ma kienx jaf li dak li kien qed jaghmel kienet xi haga hazina.

Dan ifisser illi ma kienx bizzejjed ghall-appellant jipprova illi huwa kien fis-sakra fil-mument tal-kummissjoni tar-reat, izda u fuq kollox illi kienu japplikaw fil-konfront tieghu xi wiehed jew aktar mill-eccezzjonijiet indikati fis-sub-inciz 2 ghall-artikolu 34 hawn fuq iccitati biex b'hekk l-Artikolu 34(1) Kodici Kriminali (Il-Pulizija vs Mario Camilleri App.Inf. 06/10/1998) seta` jigi stabbilit illi huwa ma kienx f'kundizzjoni jifforma l-intenzjoni kriminali mehtiega sabiex jaghmel il-hsara minnu ikkagjonata jew inkella illi huwa kien fi stat ta` genn legali.

“Evidence of drunkenness merely establishing that the mind of the accused was affected by drink so that he more readily gave way to some violent

passion does not rebut the presumption that a man intends the natural consequences of his actions.”²⁸

Illi kien jinkombi fuq l-appellant illi iressaq il-prova li fil-mument li huwa ikkometta d-delitti li dwarhom jinsab mixli, l-kundizzjoni tieghu ta' intossikazzjoni kienet tali li effettwatlu l-kapacita' tieghu li jiformola l-intenzjoni kriminali. Illi dan il-piz ta' prova kien jispetta lilu, izda huwa jonqos milli iressaq provi sabiex isostni dak minnu allegata u dan sal-grad mehtieg minnu u cioe' fuq bazi ta' probabbilita'.

Provi f'dan ri-rigward ma hemmx u kwindi din il-Qorti bhall-Ewwel Qorti qabilha ma tista' qatt tasal biex tqies dina l-eccezzjoni minnu imqanqla.”

Considered:

In the case **Il-Pulizija vs Grazio Spiteri** decided by the Court of Criminal Appel on the 7th July 1997 per Mr. Justice Vincent DeGaetano it was held:

‘...u li ma taghmel xejn b'serjeta' u konsistenza meta ma tkunx fi krizi ta' astinenza biex tevita jew tipprevjeni tali krizi, tali persuna ma tistax tinvoka l-iskriminati tan-nuqqas ta' intenzjoni minhabba li fil-mument tal-kommissjoni tal-fatt il-volonta' taghha kienet soprafatta kompletament minhabba dik il-krizi. Tali persuna tkun qieghda sempliciment tanticipa l-kommissjoni da parti taghha stess ta' atti li jiksru l-ligi u tkun qed tpoggi lilha nnifisha volontarjament f'sitwazzjoni li tiffacilita l-kommissjoni ta'

²⁸ App.Krim – The Police ve Peter William Clarke et 07/02/1958

*dawk ir-reati*²⁹, b'tali mod ghalhekk li jista' jinghad li japplika anologikament il-principju qu facit per alium facit per se.....'

Then in the case **Il-Pulizija vs John Micallef** decided by the Court of Appeal on the 27th November 1958 decided by Mr. Justice J. Flores it was held:

*'Jekk il-Qorti tkun illiberat lill-imputat, wara li ddikjarat li hu ma kienx s' sensieħ, ghax kien fis-sakra, meta ikkommetta r-reat li dwaru huwa akkuzat, minghajr ma gie ppruvat li hu kien sakkar lilu nnifsu biex jikkommetti dak ir-reat, il-Qorti znaturat l-ipotezi tal-ligi, billi ma tkunx tat kaz tar-rekwisit illi, biex l-imputat jigi liberat taht dik l-ipotezi, jrid jigi stabilit li l-imputat siker bla ma ried hu, bl-ghemil doluz jew negligenti ta' hadd iehor, ghax l-Qorti tigi li rrteniet illi, biex ikun hemm lok ghal dik l-iskriminanti, huwa bizzejjed illi l-akkuzat ma jkunx f'sensieħ minhabba sokor, u illi ma jigix pruvat li huwa sokkor lilu nnifsu preordinatament ghal kommissjoni tar-reat, u dan ankork'e' ma jkunx jirruzulta li hu gie msakkar minn haddieħor minghajr ma ried*³⁰.

*Biex l-istat ta' sokor jeskludi l-imputabilita', barra milli s-sokor irid ikun ta' grad tali li jnehhi l-koxjenza jew il-volontarjeta' tal-att jew ommissjoni konsistenti r-reat, irid ikun anki accidental, jigifieri mhux biss ma jkunx preordinat għall-kommissjoni tar-reat, imma lanqas ma jkun kolpuz, cjoe' volontarju fil-kawza ankork'e' involontarju fl-effett, kif ikun il-kaz ta' min imprudentement jixrob minghajr dik il-moderazzjoni meħtiega biex ma jiskirx.*³¹

²⁹ Emphasis of this Court.

³⁰ Emphasis of this Court.

³¹ See also **Il- Pulizija vs Mario Camilleri** decided by the Court of Criminal Appeal on the 6th October 1988 per Mr. Justice Patrick Vella; **Il-Pulizija vs Emanuel Tabone** decided by the Court of Criminal Appeal on the 26th August 1998 per Mr. Justice Vincent De Gaetano.

Considered:

The Court will thus be analysing the case in examination in the light of the said law and jurisprudence.

From the acts of the proceedings it results that the accused:

1. Has been living in Malta for about 5 years before the incident;
2. He has friends in Malta;
3. He works in Malta;
4. He worked as an electrician with one of the victims;
5. Previous to this incident, he worked inside the villa of the two other victims as an electrician;
6. The damages committed **inside the villa were committed in a part of the villa where he had worked and most of them are related to electrical works that in fact he had carried out;**
7. That **the two cars which were damaged belong to the owner of the villa and to his employer. No other cars or third party properties were effected;**
8. He does not speak negatively about his victims, on the contrary he speaks positively about the owner of the villa;
9. He was arrested in front of the residence at 77, Triq il-Ward, Attard a few minutes after the incident and **he cooperated with the police;** PC 2174 Bellia states in this regard:

‘ ffit wara avvicinajna persuna ta’ karnaggjon skura, f’idu kellu turnavit, pipe tal-gass bir-regulator u ktieb f’idu.....**Ghidnielu l-affarijiet u beda jghidilna ‘Don’t take the Koran from me.’ The police in their report did not say that the suspect was agitated nor aggressive, nor confused.**³² When asked by the police if he

³² Folio 18 et seq. of the file. See folio 75 of the file regarding the sequence of events of PS 627 Daniel Gauci.

needed medical assistance while being arrested he claimed that he did not need anything.³³

10. The accused claims that he does not recall the incident both to the psychiatrists at Mount Carmel and to the interrogating officers and also when he gave evidence before this Court;
11. He was admitted to Mount Carmel Hospital on the **22nd November 2024**³⁴ and was deemed fit to be discharged on the 2nd December 2024;
12. He was positive to cannabis when admitted to Mount Carmel Hospital;
13. He admitted that he bought cannabis/marijuana from a friend in Marsa, that is, **not from an authorised/licensed shop**;
14. Up till today he did not make good for the damages caused.

Considered:

Taking into consideration the jurisprudence of our Courts with regards to intoxication the court after having deeply reflected on this case and after considering all the facts in issue, including the testimonies of Dr. Aloisia Camilleri and Dr. Rachel Taylor East is of the studied opinion **that the defence brought by the accused under article 34 of the Criminal Code cannot hold for the following reasons:**

1. The accused knew all the victims;
2. The accused knew also the property where he committed the damages as well was well acquainted with the vehicles both of his employer and also of the owner of the villa;

³³ Folio 23 of the file.

³⁴ **Incident took place on early hours of the 21st November 2024 at around 6 am. Thus, it seems that in the aftermath of the incident the police did not believe that he was in need of medical attention and his bizarre and aggressive behaviour, later diagnosed as induced psychosis through drugs, in particular cannabis, developed either very late on the 21st November or on the 22nd November, that is many hours after the violent disturbance.**

3. The accused attacked the property at the villa on which he had worked in the previous weeks;
4. The accused did not attack the property of third parties with whom he did not have any relationship;
5. The accused does not live in the same vicinity where the said villa is situated, so the fact that he was there committing the said damages proves that he knew where he was going, otherwise why go there and not stop anywhere else to damage any other property? If this were not the case, and the accused committed the said acts randomly and not intentionally, any property is as good as any other, and the accused could have stopped at any other property along the way;
6. The accused was lucid during the whole incident and in fact did not show any animosity against the police and collaborated with them, understood the rights given and refused medical attention. He was so lucid that he requested the arresting officer to let him keep the Koran;
7. The arresting officers did not notice any abnormal behaviour and thus he was taken to the Floriana lock-up;
8. The accused was transferred from police custody to Mount Carmel twenty four (24) hours after his arrest. Apparently it was on the 22nd November 2024 that he was showing signs of aggressive and paranoid behaviour. This strengthens the deliberation of this Court that during the commission of the said acts he was lucid and knew what he was doing;
9. The accused voluntarily bought cannabis/marijuana from a friend of his³⁵ and not from an authorised source. The accused himself admits that he himself bought the substance and thus he bought it wilfully and without anyone's imposition. Thus, if the marijuana

³⁵ He never gave any indication who this person is!

caused him any mental debilitation after consumption it is completely his fault and he cannot escape criminal liability.

The Court adds that whoever uses a substance, whether legal or illegal, as in the case of alcohol or cannabis does so at his own risk, well knowing that substances can create adverse effects. In this particular case, the accused not only bought cannabis but bought the latter from the street and not from an authorised shop. Thus he also cannot rest on the fact that whatever he bought may not have been marijuana but may have been something synthetic which adversely affected him. Thus, he out of his own volition increased the risk of his own consumption!

If the Court were to give any other interpretation to the facts of this case, and in view of the evidence brought in this case, then this would mean that any person who premeditates the commission of a crime, who before carrying it out wilfully makes use of substances is able to escape criminal responsibility by the mere fact of being under the influence of the same substance. This is definitely not what the legislator intended by allowing such an exceptional defence to the rule that intoxication is not a defence at law.

The Court, thus, deems that the accused did not in any way prove to a level of probability that the exceptions envisaged by law exist in this case and are therefore applicable to him.

The Court, therefore, rejects the defence plea raised by the accused under article 34 of the Criminal Code Chapter 9 of the Laws of Malta.

Considered:

Having tackled the only defence made by the accused under article 34 of Chapter 9, the Court finds that all evidence in the acts of the proceedings point to accused as having created the disturbance and damaged the properties in question. There was no contestation of this fact by the accused. The witnesses identified the accused as being the person who committed the said acts with which he is charged. Moreover, the accused himself testified and agreed that it was he himself who damaged the property, that he knew that he was in the property of the victims and that he also knew it was their vehicles that he damaged.

Thus, the Court finds that the accused can only be found guilty of the charges brought against him.

Considered:

In considering the punishment to be imposed upon the accused, the Court took note that the accused collaborated with the police, that the accused has a clean conviction sheet, that the accused wilfully consumed a substance to derail the Court from the truth and escape criminal responsibility and this also to the detriment of his victims, that the accused damaged the immovable property and the vehicle of one of the victims and the vehicle of the other victim and that the accused has not as yet reimbursed his victims.

Decides:

Thus, for these reasons, the Court having seen articles 325(1)(a) and 338(dd) of Chapter 9 of the Laws of Malta finds the accused **MUSAH AHMED GUILTY** of the charges brought against him and condemns him to two (2) years effective imprisonment. The term he made under preventive arrest in

connection with these proceedings is to be reduced from the said imprisonment term.

The Court is also condemning the guilty party to reimburse the victims all the damages he caused and thus is imposing on the guilty party MUSAH AHMED an Order of Payment under Article 15A of Chapter 9 of the Laws of Malta in favour of Jeffrey Debattista and orders him to pay to the victim Jeffrey Debattista the amount of four thousand and four hundred and seven Euro and ninety four cents (€4,407.94) representing the total of damages caused to the said victim in the amount of six hundred and ninety Euro (€690), two thousand and three hundred and sixty seven Euro and ninety four cents (€2,367.94c) and one thousand and three hundred and fifty Euro (€1,350)³⁶ and this within a period of six months from when the guilty party serves the said imprisonment term and this in terms of article 15A of Chapter 9 of the Laws of Malta.

The Court is also thus imposing on the guilty party MUSAH AHMED an Order of Payment under Article 15A of Chapter 9 of the Laws of Malta in favour of Matthew Cilia and orders him to pay to the victim Matthew Cilia the amount of two thousand and two hundred and seventy eight Euro and fifty six cents (€2,278.56) representing the total of damages caused to the said victim³⁷ and this within a period of six months from when the guilty party serves the said imprisonment term and this in terms of article 15A of Chapter 9 of the Laws of Malta.

The Court is also imposing upon the guilty party a Restraining Order under Article 382A in favour of the victim Jeffrey Debattista and his family for a

³⁶ Folio 66, 67 and 68 of the file.

³⁷ Folio 30 and 31 of the file.

period of three years from when this judgement becomes res judicata, which Restraining Order forms an integral part of this judgement.³⁸

The Court is also imposing upon the guilty party a Restraining Order under Article 382A in favour of the victim Matthew Cilia for a period of three years from when this judgement becomes res judicata, which Restraining Order forms an integral part of this judgement³⁹.

Since no experts were appointed in these proceedings the request of the prosecution under Article 533 of Chapter 9 of the Laws of Malta cannot be granted.

The Court orders that a copy of this judgement is sent immediately to the Commissioner of Police in his capacity of Principal Immigration Officer so that if he deems opportune, immediately commences the necessary procedures so that the guilty party is sent back to Ghana after he has served his sentence and after he has fulfilled his obligations under this judgement and reimbursed his victims.

The Court explained this judgement to the guilty party in clear and simple language, his obligations under the said judgement including the Payment Order and the Restraining Orders and the consequences of the same including those should he fail to honour the said obligations.

³⁸ The Court has chosen the full term of three years envisaged by law since the guilty party has been condemned to two years imprisonment and therefore effectively he will be free to come into contact again with the victims after the lapse of a year and a half.

³⁹ The Court has chosen the full term of three years envisaged by law since the guilty party has been condemned to two years imprisonment and therefore effectively he will be free to come into contact again with the victim after the lapse of a year and a half.

The Court orders that the parties be given a copy of this judgment and that this judgement be immediately put online on the website of the court services agency.

Pronounced today the 29th April 2025, in Court, in Valletta, Malta.

Dr. Monica Vella LL.D, M. Jur.

Magistrate

Annalise Mifsud

Deputy Registrar