

In the Court of Magistrates (Malta)

As a Court of Criminal Judicature

Magistrate Dr Claire L. Stafrace Zammit B.A., LL.D.

The Police

[Inspector John Spiteri]

[Inspector Paula Ciantar]

vs

Bojan Ambrus

Comp. No: 90/2020

Today, the twenty fourth (24th) April 2025

The Court;

Having seen the charges against accused Bojan Ambrus holder of identity document number 203987A and Serbian passport number 014978659 on these islands and/or at Vela Vista, Blk B, Fl 5, Triq il-Bahhara, San Pawl il-Bahar on the 15th February, 2020 and in the preceding months and years, by means of several acts committed, even if at different times, which constitute violations of the same provision of the law or of related provisions of the law, and are committed in pursuance of the same design:

1. By lewd acts, defiled a person who had not completed the age of sixteen years and hence –Omissis– (–Omissis– Passport –Omissis–)

Art 203 (1) of Cap 9 of the Laws of Malta

2. Moreover, on the same dates, time, places and under the same circumstances, took part in sexual activities with a person who had not completed the age of sixteen years and hence –Omissis– (–Omissis– Passport –Omissis–)

Art 204C (1) of Cap 9 of the Laws of Malta

3. Moreover, on the same dates, time, places and under the same circumstances, with violence, threats, coercion or force compelled a person under age and hence –Omissis– (–Omissis– Passport –Omissis–) into participating in a pornographic performance.

Art 204A (1)(a) of Cap 9 of the Laws of Malta

4. Moreover, on the same dates, time, places and under the same circumstances, knowingly caused, for sexual purposes, a person underage and hence –Omissis– (–Omissis– Passport (–Omissis–) to participate in real or simulated sexually explicit conduct or exhibition of sexual organs, including through information and communication technologies.

Art 204D (1)(c) of Cap 9 of the Laws of Malta

5. Moreover, on the same dates, time, places and under the same circumstances, as a citizen or permanent resident of Malta whether in Malta or outside Malta, as well as any person in Malta, made or produced or permitted to be made or produced any indecent material or produced, distributed, disseminated, imported, exported, offered, sold, supplied,

transmitted, made available, procured for oneself or for another, or showed such indecent material of a person under age.

Art 208 A (1) of Cap 9 of the Laws of Malta

6. Moreover, on the same dates, time, places and under the same circumstances, acquired, knowingly obtained access through information and communication technologies to, or was in possession of, any indecent material which shows, depicts or represents a person under age.

Art 208 A (1B) of Cap 9 of the Laws of Malta

7. Moreover, for having in these Islands in the month of August, 2019 and the preceding months, by means of information and communication technologies, proposed to meet a person under age and hence –Omissis– (–Omissis– Passport – Omissis–) for the purpose of committing any of the offences in articles 204, 204A to 204D, both inclusive, and 208A, which proposal was followed by material acts that led to such a meeting

Art 208AA (1) of Cap 9 of the Laws of Malta

8. On these islands and/or at Vela Vista, Blk B, Fl 5, Triq il-Bahhara, San Pawl il-Bahar in the month of July, 2019 and in the preceding months and years, by means of several acts committed, even if at different times, which constitute violations of the same provision of the law or of related provisions of the law, and are committed in pursuance of the same design by lewd acts, defiled a person who had not completed the age of sixteen years and hence –Omissis– ID: –Omissis–

Art 203 (1) of Cap 9 of the Laws of Malta

9. On these islands and/or at Vela Vista, Blk B, Fl 5, Triq il-Bahhara, San Pawl il-Bahar in the month of July, 2019 and in the preceding months and years, by means of several acts committed, even if at different times, which constitute violations of the same provision of the law or of related provisions of the law, and are committed in pursuance of the same design took part in sexual activities with a person who had not completed the age of sixteen years and hence – Omissis– ID: –Omissis– a fourteen year old and hence a vulnerable victim

Art 204C (1) Art 208AC (1)(b)2(a) of Cap 9 of the Laws of Malta

10. Moreover for having on the 20th February 2020 on these Islands and/or San Pawl il-Bahar at around 17:30hrs with the intent to cause grievous bodily harm on the person of PS1326 Roy Sciberras manifested such intent by means overt acts which were followed by a commencement of the execution of the crime by driving a vehicle bearing registration number BCN402 at a high velocity towards the aforementioned PS1326, which crime was not completed in consequence of some accidental cause independent of his will

Art 216, Art 218 and Art 41 (1)(a) of Cap 9 of the Laws of Malta

11. Moreover for having on the 20th February 2020 on these Islands and/or San Pawl il-Bahar at around 17:30hrs caused slight bodily harm on the person of PS1326 Roy Sciberras as certified by Dr. Thomas Degiorgio (Med Reg 4112)

Art. 221 (1) of Cap 9 of the Laws of Malta

12. Moreover for having on the 20th February 2020 on these Islands and/or San Pawl il-Bahar at around 17:30hrs driven a motor vehicle of make Citroen bearing registration number BCN402 in a reckless, negligent or dangerous manner

Art 15 (1)(a) of Cap 65 of the Laws of Malta

13. Moreover for having on the 20th February 2020 on these Islands and/or San Pawl il-Bahar at around 17:30hrs wilfully committed spoil, damage or injury to or upon any movable or immovable property belonging to any other person and hence on Police service vehicle bearing registration number GVP868 to the detriment of the Government of Malta and the Commissioner of Police

Art. 325 (1)(b) of Cap 9 of the Laws of Malta

14. Moreover for having on the 20th February 2020 on these Islands and/or San Pawl il-Bahar at around 17:30hrs as the driver of the motor vehicle bearing registration number BCN402, failed to stop following an accident involving

personal injury to another person or damage to any vehicle,
animal or other property

Art 67 (1) of S.L. 65.11 of the Laws of Malta

15. Moreover for having on the 20th February 2020 on these Islands and/or Mellieha at around 18:00hrs driven a motor vehicle or other vehicle of make Audi bearing registration number BRZ111 without a licence.

Art. 15 (1)(a) of Cap 65 of the Laws of Malta

16. Moreover for having on the 20th February 2020 on these Islands and/or San Paw il-Bahar at around 18:00hrs used or caused or permitted any other person to use a motor vehicle, namely Audi bearing registration number BRZ111 on a road when there wasn't a policy of insurance in respect of third-party risks in force in relation to the user of the vehicle by that person or that other person, as the case may be

Art 3 (1) of Cap 104 of the Laws of Malta

And more over for rendering himself a recidivist in terms of Articles 49 and 50 of Cap 9 of the Laws of Malta.

The Court was humbly requested that in passing judgement, apart from applying the punishments established by law, the Court orders the confiscation of all the items exhibited throughout the proceedings.

The Court was humbly requested that in passing judgement, the Court orders that Bojan Ambrus is disqualified for holding or obtaining a driving licence.

The Court was also humbly requested to provide for the safety of –Omissis– (–Omissis– Passport –Omissis–); –Omissis– ID: –Omissis– and their families in accordance with Articles 383, 384, 385 of Chapter 9 of the Laws of Malta.

The Court was humbly requested to provide for the safety of PS 1326 Roy Sciberras, –Omissis– (–Omissis– Passport –Omissis–); –

Omissis– ID: –Omissis– and their families 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.

The Court was finally humbly requested, in pronouncing judgement or in any subsequent order, sentence the aforementioned Bojan Ambrus to the payment, wholly or in part, of the costs incurred in connection with the employment in the proceedings of any expert or referee in accordance with Article 533 of Chapter 9 of the Laws of Malta.

Having heard all evidence produced;

Having seen the criminal record of the accused Bojan Ambrus;

Having seen the articles of the law as listed by the Attorney General by means of a note dated the twenty–ninth (29th) of November of

the year two thousand and twenty-two (2022) whereby guilt was requested under the hereunder articles of the law:

- Articles 18, 203 (1), 204C (1), 204A (1)(a), 204D (1)(c), 208A (1)(1B)(1C)(2)(7), 208AA (1)¹ and 208B (1)(2)(2A) of Chapter 9 of the Laws of Malta;
- Articles 41 (1)(a), 214, 215, 216 (1)(a)(i)(ii)(iii)(iv)(b)(c)(d)(2) and 218 (1)(a)(b)(2) of Chapter 9 of the Laws of Malta;
- Articles 214, 215, 221 (1) and 325 (1) of Chapter 9 of the Laws of Malta;
- Article 15 (1)(a)(2)(3) of Chapter 65 of the Laws of Malta;
- Regulation 67 (1) of Subsidiary Legislation 65.11 of the Laws of Malta;
- Article 3 (1)(1A)(2)(a)(2A)(2B) of Chapter 104 of the Laws of Malta
- Article 6 (2) of Chapter 518 of the Laws of Malta;

¹ Prior to the amendments of Act LXIV of 2021

- Articles 17, 23, 31, 49, 50, 382A, 383, 384, 385, 386, 412C, 532A, 532B and 533 of Chapter 9 of the Laws of Malta

Having heard that the accused did not object to these proceedings being tried and decided by this Court as summary proceedings after the articles of the law were read out to him;

Having heard oral submissions by the parties.

Having considered

Heard Inspector John Spiteri who exhibited personal details of the accused, the conviction sheet of the accused, current incidental report, two (2) audiovisual recordings of the statements of the accused, the passport of the accused, a medical certificate issued by Dr Thomas Degiorgio, two (2) copies of –Omissis–’s birth certificates and a Canadian conviction sheet. He testifies that on the 20th of February 2020 the Police received a report from –

Omissis– that her fifteen (15) year old daughter had been in a relationship with the accused, and it was only later that she got to know that this relationship was a sexual one. She had in fact found out from her daughter when she had confessed that she was trying to end the relationship however the accused was threatening her that if she ended the relationship then he would proceed to distribute pornographic material featuring themselves. From further investigation it resulted that the relationship started when the accused alerted the victim to the fact that he held pornographic material of herself taken by a certain –Omissis– and he in fact promised that he would remove this material if she engaged in sexual relations with him. He confirms that after he gained a warrant of arrest against the accused, he had gone to affect this arrest in –Omissis– in front of the residence of the minor. However, when he drove past the residence and noticed the presence of police officers he drove off and, in the process, he hit a police vehicle bearing the registration number GVP–868. He was however arrested in Mellieha by RIU officers later on in the evening. It transpired that after further investigation –Omissis– was not the only victim and that the accused had also in his possession pornographic material of –Omissis–. This was also confirmed by –

Omissis– who even stated that she had engaged in sexual intercourse with the accused. He further adds that the accused was also convicted of similar crimes in Canada. He confirms that whilst being questioned the victim –Omissis– showed him the pornographic videos featuring herself and the accused. He further confirms that on the day of the arrest of the accused he and PS 1326 Roy Sciberras were in plain clothes however they were wearing police tags.

Having heard PS 1326 Roy Sciberras who testifies that on the 20th of February 2020 a report was filed at the Qawra Police Station by a fifteen (15) year old girl how had been sexually abused by the accused who was thirty-nine (39) years old. He states that the victim and her mother were summoned to Inspector John Spiteri's office at Vice Squad where it was revealed that the accused was still contacting –Omissis– since he was demanding an Apple iPhone back from the victim. It was agreed that the mother should text the accused to meet in front of the victim's residence in –Omissis–. He was informed by the victim that the accused drove an Audi A6 bearing the registration number BRZ-111 which, after checking from the database, was owned by J. Zammit Limited. It was

confirmed that the road licence and insurance policy had been expired since the year 2018. On the same day at about 17:10hrs he and his colleagues were waiting for the accused in front of the residence of the victim when it was noticed that a person was waiting in a Citroen Berlingo which bore the registration number BCN-402. After confirming with the victim's mother that this person was in fact the accused, he gave instructions to WPC 278 who was driving another vehicle to block him off, however the accused reversed as soon as he noticed him approaching the vehicle and dashed off hitting the undercover police car in the process, as well as his forearm causing slight injuries later certified by Dr Thomas Degiorgio in the Floriana Health Centre. The accused managed to escape from the scene however at around 18:00hrs he was informed that the accused was in fact arrested by the RIU. He testifies that he and his colleagues spoke to the employer of the accused to direct him to take the van to the Police Headquarters in order to verify any damages.

He continues to testify that the victim explained how she was in a sexual relationship with the accused for around six (6) months and this occurred due to the accused offering to help her remove any

nude materials that were filmed by her ex-boyfriend (a certain – Omissis–) in exchange for sexual favours. He states that the victim accepted this offer, and it transpired that the accused started to take videos himself and proceeded to threaten her that if the relationship were to end then he would share the content online. He adds that from investigations it resulted that the victim had also met with another minor and had sexual relations with said minor which were also filmed. He further states that the victim's mother informed him that the accused had been convicted of similar crimes in Canada.

Having heard Inspector Paula Ciantar who testifies that on the 20th of February of 2020 she was informed by PS 1300 Julian Fenech that a report had been filed at the Qawra Police Station by a fifteen (15) year old girl named –Omissis– together with her mother about allegations of child pornography. She testifies that between February 2019 and April 2019 the minor was in a sexual relationship with a certain –Omissis– who had filmed one of their sexual encounters. She states that the minor explained how the accused then promised to help her remove the footage from the internet if she took part in acts of a sexual nature with him and she

therefore accepted the offer. In fact, this was the start of a sexual relationship where numerous videos displaying nude material of herself were filmed. These encounters took place in the accused's apartment in Triq il-Bahhara, San Pawl il-Bahar. Due to the accused being possessive of her the minor, decided to end the relationship, however he started threatening her that he would upload and share the videos online. It was at this moment that the minor told her mother about the situation who in turn found out through a Google search that the accused had been convicted of crimes involving minors in a foreign jurisdiction. She further testifies that she contacted Inspector John Spiteri to inform her of the situation who in turn obtained a warrant of arrest against the accused.

She continues to testify that the minor spoke to Inspector John Spiteri and confirmed to him that the accused normally made use of a vehicle of the make Audi A6 with registration number BRZ-111. Due to the fact that the accused was still in contact with the victim's mother in order to take back a phone he gifted to the same minor, it was decided that his arrest would be set up in front of the victim's residence in -Omissis-. She confirms that on the day of the arrest she was in a vehicle along with WPC 278 Sherona

Buhagiar and WPC 308 Kim Camilleri whilst Inspector John Spiteri, PS 1326 Roy Sciberras and PS 1408 Adrian Ciappara were in a separate vehicle. At one point a silver Citroen Berlingo with registration number BCN-402 entered the street and was being driven by the accused. She confirms that PS 1326 Roy Sciberras gave orders to block the accused however he drove off and, in the process, hit the car she was in. She recalls that due to the fact that she was facing away from the victim's residence she couldn't see much. The accused then drove off and they eventually lost track of him. She testifies that later on in the evening she was informed that the RIU had in fact arrested the accused in a different vehicle. She states that a search was conducted for the Citroen Berlingo and in fact the vehicle's owner was contacted in order to bring it to the Forensic Department in order to assess the damages on it. She testifies that from further investigations it resulted that there was also a second victim who happened to be a minor and who was also in a sexual relationship with the accused. She confirms that this second victim was spoken to by Inspector John Spiteri, and it transpired that a certain –Omissis– had originally taken footage of nude material of this second victim however he hadn't circulated

it. She further states that the accused was arraigned on the 22nd of February 2020 in front of Magistrate Dr Charmaine Galea.

Having heard -Omissis- who is the mother of -Omissis-. She testifies that one night her daughter entered the house in tears and explained to her that the accused was her boyfriend at the time. She states that her daughter continued to explain that she was in an intimate relationship with the accused due to the fact that he used to threaten that if she left him then he would share a footage of her where she would be in the nude. She recalls discovering via a search on the internet that the accused was already convicted of crimes of a sexual nature involving minors in Canada. She continues to testify that she recalls the accused communicating with her in order to request back a phone he had gifted to her daughter. She therefore agreed to give back the phone in exchange for money however she was concerned that there was indecent material of her daughter on the phone and that is why she informed Inspector John Spiteri of this. She further states that the accused knew that her daughter was fifteen (15) years old, and she never approved of the relationship. She states that it was agreed upon with Inspector John Spiteri that she would simulate a meeting in

front of her residence while the police lie in wait in order to arrest the accused. She recalls that on the day of the arrest a vehicle being driven by the police tried to block the accused however he managed to drive off by hitting the police vehicle.

Having heard PS 1300 Julian Fenech who testifies that on the 20th of February 2020 he was informed by WPC 377 Lorna Spiteri that – Omissis– lodged a police report together with her mother regarding alleged blackmail involving child pornography. He spoke to the victim who informed him that in February 2019 she had sexual relations with a certain –Omissis– who in turn had filmed her in the nude. After the relationship ended this footage was uploaded online and shared. She explained to him that the accused intervened in order to help her remove the footage however he would only do this if she took part in sexual intercourse with him. She therefore accepted the offer. He confirms that all this was noted down in his report marked Doc. JF1.

Having heard Karen Cremona on behalf of Transport Malta and the Transport Directorate. The witness is a manager at the Land

Transport Directorate and confirmed that the vehicle bearing registration number BCN-402 is a Citroen Berlingo with a silver colour and is registered on Matthew Alan Cauchi (ID 404083M). This registration has been in place since the 9th of April 2019. The vehicle bearing registration number BRZ-111 is a grey Audi A6 registered in the name of Jane Zammit on behalf of J Zammit Limited (ID 535884M). This registration was made on the 22nd of November 2019. The vehicle bearing the registration number GVP-868 is a white Peugeot 208 which is registered on the name of the Commissioner of the Police and has been so registered from the 22nd of February 2019.

Having heard Dr Marisa Mifsud who was appointed by this Court to transcribe the contents of two (2) CDs on the 6th of March 2020 and presented said transcription marked as Doc. MM1.

Having heard WPS 377 Lorna Spiteri who explained that whilst she was stationed at the Qawra Police Station on the 20th of February 2020 –Omissis– entered the Police Station together with her mother in order to file a report against someone who was

blackmailing her with a pornographic video of herself. She informed Sergeant PS 1300 who was on duty at the Mosta Police Station and who eventually spoke to the victim and her mother. She confirms that the alleged video was not in the victim's possession when she entered the Police Station.

Having heard PC 575 Mark Tonna who was posted at the Rapid Intervention Unit on the 28th of February 2020. He testifies that between 5:30pm and 6:00pm he was dispatched to Mellieha when he was told to proceed to Qawra as there was an incident where someone tried to injure some officers by attempting to run over them with a car. He states that PS 1326 Roy Sciberras informed him that the alleged accused might have been using a van of the make Peugeot bearing registration number BCN-402. He was further told by the same PS 1326 that the car could also have been an Audi with number plate BRZ-111. He further testifies that he was also informed that the alleged aggressor could be in the area of Mellieha around Triq l-Gholjiet. He testifies further that eventually the accused drove by with an Audi bearing the registration number BRZ-111 and as a result he proceeded to stop the vehicle and following instructions from Inspector John Spiteri proceeded to

detain the accused and this after reading out his rights at law. He explains that the accused was handed over to the officers of the Vice Squad. He adds that the Audi had a photocopy of a trial run number plate.

Having heard PC 1507 Ian Borg who testifies that on the 20th of February 2020 PC 575 and himself were attending a dispatch in Mellieha when they were contacted by the Control Room that a car bearing the number plate GBN 402 had attempted to run over police from the Vice Squad. He was informed that the car could possibly be located in the vicinity of the Mellieha area in Triq I-Gholjiet. He was also informed that the alleged perpetrator may have switch vehicles and was probably using an Audi bearing the plates BRZ-111. He testifies that fifteen (15) minutes later the accused was stopped whilst driving an Audi bearing the same number plates (BRZ-111) near Bellview in Mellieha. He confirms that the accused was given his rights at law and was put under arrest. He adds that the Control Room confirmed that the car's licence and insurance were expired and that there was a photocopy of a trial run on the dashboard. He testifies that the accused was handed over to Inspector John Spiteri.

Having heard -Omissis- by means of videoconference who was fourteen (14) years old when the alleged crime occurred. She testifies that she knew the accused in 2019 and was told by him that he was twenty-two (22) years old and of Greek nationality. She states that she made contact with the accused through Instagram. She states that she had agreed to meet with the accused in Rabat and from there she was taken to his apartment in Qawra though she cannot recall the make of his vehicle and neither the colour. She testifies that she had agreed to meet with the accused in order to gain money in exchange for sexual intercourse. She confirms that she had stated her age to the accused via chat messages and in fact she had specified that she was fourteen (14) years old. She further testifies that the apartment of the accused was close to the National Aquarium in Qawra, and sexual intercourse was held in his bedroom which lasted for around two (2) hours. She states that afterwards the accused gave her cash in the amount of three hundred Euros (€300), and she then left the apartment due to the fact that her parents were due to pick her up from Sliema. She states that her parents did not know of this meeting however one friend knew of this. She further adds that the accused had told her that he was twenty-two (22) years old though she didn't believe

him. She continues to testify that she engaged in sexual intercourse with the accused only once and in fact communication did not continue between the two of them. She states that they started talking again around January or February of the year 2020 via WhatsApp.

In cross-examination she testifies that at first, she did not want to meet with the accused as she did not wish to take the risk however the prospect of money changed her mind. She confirms that she had sent the accused nude photos of her due to the fact that he had promised to give her money. She states that she deleted the photos and never kept them. She specifies that the friend who knew about all this was a certain –Omissis–.

Having heard –Omissis– by means of videoconference and who at the time of the crime was fifteen (15) years old. She testifies that she met the accused at the end of July in the year 2019 and this after he had used two (2) fake profiles to finally contact her. She explains that a friend of hers informed her that there was someone asking around for her through Snapchat. She states that the

accused told her that he was from America and would soon be residing in Malta – a fact she did not believe. She states that two (2) months prior to this she was in a relationship with a certain – Omissis– who had filmed her along with himself taking part in sexual activities. She states that somehow these footages were being distributed online and the accused (through fake accounts) was explaining to her that if she slept with him then he would be able to remove these footages. She therefore accepted the offer and met the accused on the 16th of August when she was fifteen (15) years old. She confirms that she met the accused in his apartment despite being scared and then proceeded to engage in sexual intercourse with the accused.

She continues to testify that days later the accused made contact with her claiming that there are more videos of her circulating online and he would be willing to take them down if she slept with him again. After a while she agreed to this and met up with him again and took part in sexual intercourse again. She states that from that point on they started going out as friends however he wanted to take the relationship further. She states that the sexual relationship lasted for around six (6) months. She explains that the

apartment of the accused is close by the police station in Qawra and close to the establishment Cafè Sicilia. She recalls that once you enter the apartment on the left-hand side there is the living room, the kitchen and the balcony. On the right-hand side there is a hallway along with a bathroom, a bedroom and the bedroom of the accused where the sexual encounters used to take place. She states that the accused would constantly threaten her that if she left him then he would share videos of their sexual encounters online along with those of her ex. She states that she knew of these videos as she would see the accused filming her and she in fact saw a few of the videos.

She further testifies that the accused knew of her age from the beginning whilst he informed her that he was twenty-three (23) years old. She in fact got to know of his real age when she happened upon his Identity Card in his room, and she did confront him about it. She further adds that the relationship ended due to the fact that the accused was becoming very possessive over her to the point where he would want to know every movement she made including whenever she would visit friends. In fact, when she went to meet with a couple of friends at a café he ordered her to

come out as he suspected that she was cheating on him. It was at that point that she opened up to her mother about this abusive relationship. She states that her mother took her phone and communicated with the accused whilst her stepfather found through a Google search that the accused had already been convicted in Canada for committing similar crimes. She confirms that the phone she was using was given to her by Bojan on the 30th of December 2019 and it was an iPhone 11 ProMax.

In cross-examination she denies meeting the accused in Paceville. She confirms that in February 2020 she was given a fake Identity Card to get into clubs by a certain George Brutal. She confirms that there were times when the accused would want to end the relationship however they would make amends and on Valentine's Day her mother even helped them reconcile. She states that on the day the accused and herself were heading to a party however the accused wished to spend Valentine's Day alone with her. This was why he was extremely furious with her and was even threatening her in the car whilst he was driving. At a certain point the victim got out of the car and went back home in tears. Her mother then proceeded to call the accused to come over and make amends. She

recalls one occasion where the accused had gone out to dinner with herself and the rest of her family. She states that she had informed the accused that she had had sexual relations with older men before him. She further adds that the accused had access to her Instagram account due to the fact that he forced her to give him her password. She states that she used to go to Paceville with the accused and they would in fact take photos together. She confirms that the accused used to also drive her to school. She confirms that her stepfather bought the accused flights to come back to Malta after he had missed his flight in Belgrade.

Having heard WPC 308 Kimberly Camilleri who testifies that on the 20th of February 2020 a report was lodged regarding sexual activities with a minor. The mother and her daughter –Omissis– were in fact called to the police station to explain the allegations. She states that the fifteen (15) year old victim alleged that she had a sexual relationship with a certain –Omissis– who had taken a video of themselves whilst engaging in sexual intercourse. Once the relationship was ended, she then proceeded to meet the accused. She states that the accused told the victim that he knew of the existence of the video and offered to help her remove it

however she had to engage in sexual intercourse with him. She goes on to state that the victim proceeded to engage in a sexually active relationship with the accused for six (6) months wherein he would video themselves engaging in sexual intercourse. The victim explained that the nude material taken with –Omissis– was removed however the accused started to become more and more possessive of her and she attempted to end the relationship. The accused however threatened her that if the relationship were to end then he would share the pornographic material of themselves via social media. It was stated that their last act of sexual intercourse occurred on the 15th of February 2020, and it was at that point where she informed her mother of all this. As a result, a warrant of arrest was issued.

She continues to testify that she was in an unmarked vehicle alongside Inspector Paula Ciantar and WPC 278 whilst Inspector John Spiteri, PS 1326 and PC 1425 were in another unmarked vehicle. The arrest was due to take place at the behest of Inspector John Spiteri in Triq il-Korp tal-Pijunieri. At a certain point a vehicle of the make Citroen Berlingo parked near her vehicle, and she was instructed by PS 1326 to block the vehicle. It was at this point that

the accused reversed his vehicle into hers and drove off hitting PS 1326 in the process. After losing trace of him in Qawra she received information that around 6pm the accused was arrested in Mellieha by the RIU. She further adds that after a search was conducted in the accused's apartment it transpired that the accused had also communicated with –Omissis– who is fifteen (15) years of age. She testifies that this victim was spoken to and she in fact confirmed that she had sent nude material to the accused and had even admitted to taking part in sexual intercourse with the accused. She informed her that the accused had claimed to be twenty-three (23) years old.

Having heard once again –Omissis– who exhibited the birth certificate of –Omissis– that was marked as Doc. AD1 and confirms that her daughter was born in –Omissis–.

Having heard WPC 2278 Sherona Buhagiar who testified that on the 20th of February 2020 Inspector John Spiteri, Inspector Paula Ciantar, PS 1326, PC 1425, PC 2308 and herself reported at Qawra to execute a warrant of arrest against the accused and this after a

report was filed by a certain –Omissis–. This –Omissis– stated in the presence of her mother that she had a sexual relationship with the accused that lasted for around six (6) months. She further stated that a video was taken by the accused of themselves whilst engaging in a sexual encounter. She states that on the day the report was filed she was driving a vehicle of the make Peugeot 208 which was of a white colour and unmarked with PC 2308 and Inspector Paula Ciantar as passengers. She testifies that Inspector John Spiteri, PS 1326 and PC 1425 were in front of the victim's residence in –Omissis– when a vehicle of make Citroen Berlingo stopped in the middle of the road next to her vehicle. She states that she was given orders to block this van however the driver of the vehicle reversed and hit the car she was in. As she drove after this vehicle, she noticed that PS 1326 was tossed backwards. She confirms that after a while she lost sight of the vehicle. She was later informed that the accused was found in Mellieha as he was found by the RIU. She confirms that the accused was given his rights at law and was then arrested. She further confirms that she was present for the search at the accused's apartment and from investigations carried out it transpired that the accused had a chat present on his mobile phone with a certain –Omissis– who was a

fifteen (15) year old. She continues to testify that –Omissis– was spoken to, and she confirmed that she had sent nude materials to the accused and had even engaged in sexual intercourse in his apartment located in Qawra. The victim –Omissis– had stated that the accused had informed her that he was twenty-three (23) years of age.

In cross-examination she states that at the time when she was driving the vehicle she was in plain clothes. She further adds that the car that she was driving was an unmarked vehicle and that at the time she did not identify herself to the accused. She testifies that during the search she was looking for electronic equipment that could aid in the investigations. Regarding the nude material she recalls that –Omissis– had informed her that she had sent the accused nude material. She also adds that the Cyber Crime Unit had handled this aspect of the investigations.

Having heard PC 1425 Adrian Ciappara who testifies that on the 20th of February 2020 he had gone to Saint Paul's Bay along with Inspector John Spiteri and PS 1326 Roy Sciberras to arrest the

accused. He testifies that once they had parked their Police vehicle in Triq il-Korp tal-Pijunieri, Saint Paul's Bay a silver van of the make Berlingo reversed into the vehicle and sped off. He states that his colleague PS 1326 attempted to stop the van however he was slightly hit by it. He confirms that the Police Control room was informed of this incident when around 6pm he received information that the accused was arrested in Mellieha by members of the RIU. In cross-examination he states that his colleagues and he were in plain clothes, and he was unable to identify himself as a Police Officer due to the fact that when the accused reversed into the police vehicle, he was still in the vehicle.

Having heard Matthew Alan Cauchi who testified that he is an engineer, and he knows the accused due to the fact that he was employed in his company until he was arrested. He confirms that the accused was tasked with performing manual labour and that he would have to roam around different places to perform his job. He further confirms that a van was provided to the accused which was a grey Berlingo bearing the registration number BCM-402. He testifies that he got to know of the arrest of the accused whilst he was at work when he got a call from the Police. He confirms that

on the day of the arrest the accused was using the vehicle. He further states that the van was inspected for damages at the Police Headquarters in Floriana. He states that he does not know how the vehicle was damaged.

In cross-examination he states that there isn't a fixed time where the accused would leave his van due to the fact that it would depend on the job he was sent to do and how long it would take. He testifies that there is a possibility that the accused could have sometimes used a different van, but this would have to be done with his authorisation. He states that he does not check the vans for damages due to the fact that he trusts his workers.

Having heard Johann Borg who is an auto assessor and was tasked with assessing a vehicle being a Peugeot 208 with registration number GVP-868. The assessment was made in May 2020 and a report of the damages that the vehicle sustained was presented and marked as Doc. JB1. He confirms that the assessment was done in the Police Garage.

Having heard Dr Thomas Degiorgio who confirmed that the medical certificate marked as Doc. JSX was written by himself on behalf of Roy Sciberras on the 20th of February 2020 at the Floriana Health Centre at 20:20hrs. He confirms that the findings on the patient were pain and tenderness of medial aspect of the right forearm.

In cross-examination he confirms that at the time of examining the patient no obvious bruising was present however this does not exclude that bruising wouldn't appear after a certain amount of time and this owing to the fact that he had examined the patient exactly after the injury.

Having once again heard Inspector John Spiteri who presented the accused's mobile phone along with -Omissis-'s mobile phone. In cross-examination he confirms that -Omissis- had given her mobile willingly as part of the investigation into allegations that pornographic videos of herself were recorded by the accused. He confirms that he had seen a video where the minor victim could be seen engaging in sexual intercourse with the accused. He confirms

that –Omissis–’s phone had already been elevated prior to speaking to the accused.

Having heard Inspector Dorianne Tabone who presented –Omissis–’s birth certificate marked as Doc. DT1.

Having heard –Omissis– who testifies that he was convicted of taking video whilst taking part in sexual intercourse with a fifteen (15) year old girl. He states that at the time of the crime he was sixteen (16) years old. He confirms that the name of the fifteen (15) year old was –Omissis– and he had started communicating with her through Instagram. He confirms that they were in a relationship for around two months. He testifies further that –Omissis– knew that he had taken a video of them in an intimate moment, and she even requested him to send her a copy. He confirms that the idea for taking the video was his.

Having heard David Collins on behalf of J. Zammit Limited who testifies that the vehicle with registration number BRZ-111 is still registered under J. Zammit Limited with Transport Malta and is

classified for re-sale. He states that this vehicle was given to Adrian Attard in order to be sold from his showroom named AJ Motors. He further states that the vehicles are not meant to leave the showroom of the car dealers unless they have been sold and if they are to leave the showroom, they are to have trial run plates showing. He does not recall when the vehicle was given to Adrian Attard as he does not keep record of such details. The logbook of the vehicle was presented and marked as Doc. DC1.

Having heard Adrian Attard who testifies that a grey Audi A6 came into his possession due to the fact that he was a car dealer. He states that the vehicle was given to him by J. Zammit Limited. He states that the vehicle was being used by the accused due to the fact that it was lent to him for a few days. He states that this was done due to the fact that the accused had purchased a BMW from him, but this vehicle wasn't ready to be used. He testifies that he assumes that the accused drove the Audi A6 from his showroom in Pietà to Mellieha and he wouldn't know if it was driven elsewhere.

Having heard **PS 2293 Michelle Camilleri** who testifies that on the 20th and on the 21st of February 2020 she took photos of two (2) vehicles one bearing the registration number BCL-402 (pertaining to CHI Consultants) and the other bearing the registration number GCC-391 which was a Peugeot 208. These photos were taken to show damages that were sustained on the vehicles and a report was presented regarding these same damages marked as Doc. MC1.

Having heard **Keith Cutajar** who was appointed by this Court on the 2nd of November 2021 to examine the mobile phones marked as Doc. JS7 and Doc. JS8. He testifies that Doc. JS7 is a black Huawei phone whilst Doc. JS8 is an Apple iPhone 82218 model 11 pro. He confirms that extraction of data from the devices was successful, and a number of SIM cards and SD cards were extracted successfully. This extraction was document via a report marked as Doc. KC1.

He further testifies that on the 4th of May 2023 he was appointed by this Court to analyse the phone of the accused and report when

it was active, which applications were used and whether the phone was tampered with in relation to the period post arrest (20th February 2020). He concludes in his report marked Doc. KC1 that the phone was not well preserved at the time of arrest as there were calls coming in, there was internet activity, there were browsing activities, social network activity as well as an influx of emails. He states that in forensic terms these would be classified as tampering. He further states that these activities kept on going until the 21st of February 2020.

Having heard the accused Bojan Ambrus out of his own will who testifies that he met –Omissis– through her parents. He denies the allegations that –Omissis– made in her testimony and states that her mother had asked him to chaperone her whilst she went to Paceville and even take her to and from Paceville. He states that he never met –Omissis– and does not even know who she is. Regarding the day of his arrest, he testifies that he had gone to –Omissis–’s residence with the company car (the Citroen Berlingo) due to the fact that he had arranged a meeting with the minor’s mother in order to pick something up. Once he arrived in the street where the residence is he noticed three officers in plain clothes

running towards him. It was due to his state of panic and fear that he drove off to Mellieha in order to drop off the company car. Later on, whilst he was driving his own car (an Audi A6) he was stopped by a police vehicle and was then duly arrested. Regarding the officers in plain clothes, he states that one of them was wearing sunglasses. Regarding his driving licence he recalls that he had given it to the Police who arrested him. He states that the company car was insured through the company itself.

In cross-examination he denies having been in a sexual relationship with –Omissis– and that he never filmed her whilst engaging in sexual intercourse with her. He further denies ever catfishing minors through Facebook. He confirms that he had once gifted an iPhone to –Omissis– though this was not an intimate gift. He further states that this gift was a Christmas present and that the minor herself requested this gift. He adds that –Omissis–’s mother knew that he was thirty-nine (39) years old at the time since at one point he visited Serbia and due to the fact that he missed his flight back to Malta, the minor’s mother bought him a plane ticket and she was thus given access to his passport details. He confirms that he was convicted for similar crimes in Canada.

Having Considered

That the accused Bojan Ambrus is being charged with a number of offences which may be further classified under those relating to sexual offences with minors and the others as those relating to the day of the arrest of accused.

Sexual offences with minors and related offences

The accused Bojan Ambrus is being charged with the offence of defilement of minors (Art. 203) of –Omissis– in the period dating 15th February 2020 and the years preceding and that of –Omissis– in the month of July 2019 and preceding months. He is also being charged with the offences participation of sexual activities with the said minors (Art. 204D) and the producing of sexually explicit material relating to these minors (Art. 208A(1)).

Article 203(1) of the Criminal Code after the amendments of 2018 states that:

“(1) Whosoever, by lewd acts, defiles a person who has not completed the age of sixteen years, shall, on conviction, be liable to imprisonment for a term from four to eight years:”.

As regards the elements of the crime of defilement of minors the local jurist Professor Mamo in his Notes on Criminal Law analyses such elements and says that this crime:

“deals with those lustful acts not consisting in carnal knowledge or attempted carnal knowledge with violence, whether actual or constructive, committed on the person or in the presence of any individual, whether male or female, and capable of defiling such individual.”

Therefore, the first element required to be proven is that of the age of the victim, that being a minor. The second element required for this offence is the material element that is the lustful acts which are described as:

“Lewd conduct is any unlawful act committed by an individual with the purpose of arousing the libido or sexual

interest of themselves or the person towards whom this action is directed.”

Professor Mamo continues that:

“this expression does not include mere words, or any picture, book or representation, though obscene, or other indecent facts which affect only the moral sense. These do not constitute the crime in question. It is required that the defilement be by lewd acts, which acts must be committed either on the person of the minor or at least in his presence”.

He continues:

“to take a different view would be to ignore the obvious spirit of the law in creating the crime, that is the desire to protect youth from the pernicious effects of moral defilement and, therefore also from all those acts, which, although they take place without physical contacts, are nevertheless inherently intended to defile.”

Mamo describes these acts as *“inclusive of all acts directed to the indulgence of the sexual appetite.”*

Finally, the third element required is the act of corruption. There are a number of legal jurists who do not agree that if a minor is already corrupt, he/she may be subject to further corruption and therefore will not fit under this third element, however others opine that already corrupt minors may also be subject to corruption.

This Court is of the opinion that this aspect has to be analysed further in that it might find some applicability in view of the fact that from the evidence presented it transpired that both –Omissis– and –Omissis– had already experienced more than once sexual encounters with other men and even with men older than them. Indeed, they have also experienced consensual illicit taking of pornographic material of themselves.

At this stage reference is being made to the Court of Appeal judgment in its inferior jurisdiction in the case decided on the 8th of January 1996 by the names Pulizija vs Thomas Wiffen where as

regards the material elements of this offence of defilement it was stated:–

“For the completed offence, and apart from the formal element of the offence, there must be the lewd act (“atto di libidine”) and the actual defilement. The lewd act may be committed either on the person or in the presence of the minor. All acts which either of their very nature or of the circumstances in which they are performed are directed to the indulgence of the sexual appetite either of the agent or of the victim and are capable of arousing the sexual interest of the victim, are lewd acts for the purposes of the offence in question.”

As to the element of the actual corruption the same Court of Appeal decided:–

“As to the requirement of actual defilement, this is obviously not something that can be measured with any known scientific instrument, but is something which has to be assessed by the prudent judge -- the lay judge in the

case of a trial by jury, the professional magistrate or judge in all other cases -- taking into account all the circumstances of the case including in particular the age of the victim and the nature of the act or acts. Appellant, in his application, states that in order that one can speak of actual defilement "at least the curiosity or the interest of the minor should have been aroused", so that "if the minor is already strong-willed enough and rejects even the least advance by the offender" then, always according to appellant, there is no actual defilement. Now, whereas the minor's reaction is a fact to be taken into account, it is not the sole criterion, nor indeed the most important criterion, of whether or not there has been actual defilement."

The same Court continues:–

"In other words if the acts in question are lewd acts in the sense above defined, that is are apt to bring about a lesion of the moral integrity of the passive subject in respect of sexual matters, then, in the absence of any indication that the said passive subject has not been affected by those acts

-- for example, because he or she was, to some degree, already depraved -- whoever has to judge the facts may reasonable conclude that there was actual or effective defilement.” (emphasis by Court)

This Court is of the opinion that not all elements of the offence of defilement concur in this case for this offence to be successfully proven. In the case of –Omissis– she states that she wanted to have sexual relations with the accused to gain some money and that she had previously sent nude photos of herself to him. She however did not give any additional details of their encounter. As regards – Omissis– the situation was a bit different. It transpired from her testimony that she was not new to sexual encounters with other men even with men older than her. She even had sexual encounters with a particular person by the name of –Omissis–, where such encounters were filmed with her consent. As regards the accused, although she confirmed that the encounters started off by her sleeping with the accused so that such indecent videos that were circulating on the net were to be removed, she admits that later on the relationship became more stable and the reason why she decided to report to the police was not for the actual sexual

encounters but because of jealousy on the part of the accused. It is to be said as well that in no instance from evidence was any past abuse or neglect proven on minor in a way that led her to that type of life at the age of fifteen (15) years. Therefore if she decided to engage in sexual encounters with various men and to consent to filming of the same, it was out of her own free will and not due to some trauma of the past.

However it is to be said as well that even though the Court is not going to apply strictly the principle of *corrupta non corrumpitur* there does not seem to concur all the elements of the offence under Article 203 of the Criminal Code in relation to both minors involved. In this regard, reference is being made to the judgment Repubblika ta' Malta vs Carmelo Spiteri (20/3/1989) where it was explained that:–

"Huwa fatt li jistghu jinqalghu kazijiet fejn allegat suggett passiv tar-reat ikkontemplat fl-artikolu 203 minhabba hajja dedikata ghal laxxivija u ghall-pjaciri sesswali ikun fi stat ta' travjament morali tant komplet li difficilment wiehed jista' jimmagina kif jista' jigi ulterjorment korrott u

kazijiet bhal dawn gieli gew ikkunsidrati minn dawn il-Qrati, izda hu cert ukoll li l-esperjenza sesswali precedenti mhux necessarjament teskludi l-possibilita' li jkun hemm korruzzjoni ghaliex kif intqal mill-Qorti tal-Appell Kriminali (Sede Inferjuri) "Il-Pulizija vs George Portelli" 2-2-1975, fejn dik il-Qorti abbraccjat it-teorija moderata ta' Maino, "mhux qed jinghad li l-persuna gja' parzjalment korrotta ma tistax tigi korrotta izjed. Si tratta ta' kwistjoni ta' bilanc";

Finally the Italian Corte di Cassazione (Cass. pen. n. 44681/2005 – 7/12/2005) on this issue of the actual defilement commented:

"Il bene giuridico tutelato nel delitto di corruzione di minorenni consiste nella salvaguardia di un sereno sviluppo psichico della sfera sessuale di soggetti di età minore, che non deve essere turbato dal trauma che può derivare dall'assistere ad atti sessuali compiuti con ostentazione da altri." (emphasis by this Court)

Therefore having stated the above, this Court does not deem that all the elements of the crime of corruption of minors subsist and therefore the first (1) and eight (8) charges against the accused have not been proven.

Participation of Sexual Activities with Minor (Art. 204C(1))

In that charges two (2) and nine (9) relate to sexual activities with minors –Omissis– and –Omissis–. The relevant article of the law which regulates this offence is Article 204C of Chapter 9 of the Laws of Malta which stipulates the following:–

“(1) Whosoever takes part in sexual activities with a person who has not completed the age of sixteen years shall, on conviction, be liable to imprisonment for a term from five to ten years.”

Here it is apt to point out that the Attorney General did not include the sub-article of the section which speaks about threats or coercion instead it chose to include the provisions of 204A and

204D which speak about threats and coercion in relation to pornographic material.

Having considered that the accused Bojan Ambrus is being charged with sexual activities with minors –Omissis– and –Omissis– where they had not attained the age of sixteen years. Now as regards the age of these minors, reference is made to their testimony namely that of –Omissis– where she confirmed that her age in the year 2019 was of fourteen (14) years whereas –Omissis– confirmed that her age was that of fifteen (15) in the same year. Further to this, the relevant birth certificates show and attest their age at the time of the alleged offences.² As regards –Omissis– it is to be stated that although the birth certificate so presented was not attested by a Consulate of the country of origin, this coupled with the confirmation on oath of the age of the minor suffices as proof of age. This Court further adds that it is morally convinced that the accused Bojan Ambrus knew the age of the minor –Omissis– partly because it was mentioned in her Instagram account³ and also because the accused was a family friend even of her mother.

² Dok. JSX as regards -Omissis- (Fol 491 et seq). Dok. DT1 is birth certificate of -Omissis-.

³ Which screenshot forms part of the report of expert Keith Cutajar – Dok. KC1.

As regards the material element of the offence it is to be made clear that what is going to be said in relation to the minor –Omissis– does not necessarily apply to –Omissis–. The minor –Omissis– testified on oath in front of this Court differently composed by video conferencing. At the time of the testimony her age was of sixteen (16) therefore she had a good grasp of the importance of a testimony on oath in front of a Court.

From the testimony of both Inspector Paula Ciantar and that of Inspector John Spiteri it transpired that they got to know of the involvement of the said minor with the accused when –Omissis– lodged the report and this when analysing the data tendered by the said –Omissis–. However nowhere in the acts of the case was mention of these findings. In fact, upon analysis of the report submitted by IT expert Keith Cutajar⁴, he concludes that because of the enormous amount of data found in the devices analysed⁵ *“recommends that the Court directs him to which chats/videos require still images”*.

⁴ Dok. KC1 folio 422 et seq.

⁵ These devices are detailed in page number

Indeed, this Court went through the data which was downloaded from such devices and nowhere could be found a tangible connection with the minor –Omissis–. It is very unclear why the Attorney General failed to request such still images pertaining to this perhaps because the data downloaded by the said expert was not even view let alone examined!

Furthermore, even though this Court found no consolation from the data exhibited, neither did the testimony of the said –Omissis– offer any further help. This due to the fact that even though she mentioned fake accounts and wanting to have sexual relations with the accused for money, her testimony was very generic and indeed did not offer any probatory value to the case of prosecution that needs to prove its case beyond reasonable doubt, this despite of the fact that the alleged facts occurred just a year prior to her testimony. Therefore, the offence of sexual activities with minors, as related to minor –Omissis– could not be proven.

As regards the minor –Omissis–, although the same reasoning as regards the data exhibited applies, her situation is somewhat different. The case started off by report lodged by the same and

her mother where initially the complaint was lodged on the 20th February 2020 as regards the pornographic videos which were taken with her consent by –Omissis– and were allegedly spread on the web and also because of jealousy and possessiveness of accused with which she had a sexual relationship with. Here the report is being quoted *ad litteram* since it gives a good insight of what the minor related to the police *ab initio*. In fact, it states⁶:

“Action Taken

Illum l-20 ta’ Frar 2020 ghall-habta ta’ xi s-01:00 hrs, gewwa l-ghassa tal-pulizija tal-Qawra giet tirraporta certu –Omissis– (pfr) flimkien ma’ bintha minorenni ta’ hmistax-il sena certu –Omissis– (pfr) fejn xtaqu jirrapurtaw tixrid ta’ pornografija fil-konfront ta’ –Omissis– (pfr).

–Omissis– (pfr) spjegat li fi Frar 2019 kienet bdiet relazzjoni ma’ certu –Omissis– (person related). Hi spjegat li din ir-relazzjoni kienet intemmet f’April 2019. Hi spjegat li matul din ir-relazzjoni f’okkazzjoni minnhom meta kienet gewwa Manoel Island il-Gzira, hu kien hadilha video

⁶ Dok. JS3 – folio 26.

taghha b'mod pornografiku meta hi kien ghad kellha erbatax-il sena. Hi spjegat li f'dan il-video hi kienet tidher b'sidirha barra fejn dan kien sar bil-kunsens taghha ghax kien talabha hu ghal diversi drabi. Hi spjegat li wara li ntemmet ir-relazzjoni ta' bejniethom -Omissis- (person related) beda jixxerja w jxerred l-imsemmi video taghha ma' shabu. Hi spjegat li saret taf b'dan it-tixrid ta' l-imsemmi video minn habib taghha certu Bojan Ambrus (person related).

Hi spjegat li Bojan Ambrus (person related) kien spjegalha li hu seta jnehhi l-imsemmi video minn fuq l-internet peress li kienet qed jigi xxerjat w hi kull ma riedet taghmel hu li jkollha x'taqsam mieghu. Hi spjegat li accettat li taghmel hekk u hu kien qalilha li l-imsemmi video kien tnehha w hi emmnitu ghax min dak inhar lil hawn ma semghetx aktar bih. Hi spjegat li ma' l-imsemmi Bojan Ambrus (person related) li kellu disgha u tletin sena, bdiet relazzjoni mieghu f'Awwissu 2019. Hi spjegat li kellha x'taqsam mieghu hafna drabi w kien jehdilha diversi videos pornografici li dejjem saru bil-kunsens taghha. Hi spjegat

li fl-imsemmija videos hija kienet tkun totalment bla hwejjeg u f'uhud minnhom kien jkun hemm hu wkoll jaghmlu l-atti sesswali flimkien. Hi spjegat li huma kienu dejjem jiltaqghu fir-residenza tieghu li tinsab fil-fond Velavista, Blk B, flt 5, triq il-Bahhara, San Pawl il-Bahar.

Hi kompiet tispjega li bir-relazzjoni ta' bejniethom kienet qed tiddejjaq ghax hu kien wisq possessive w ma kienx jafdaha. Meta hi bdiet turih li riedet twaqqaf ir-relazzjoni ta' bejniethom, hu beda jirrikattaha li jekk titilqu kien ser jibda jixxerja w jxerred l-imsemmija videos pornografici fejn kienet tidher hi li kien hadilha hu stess u sahansitra kien ghad ghandu li kien hadilha -Omissis- (person related)."

The Court has also seen the video conference of the minor – Omissis– under oath in front of this Court differently composed whereby she confirmed that she lodged the said report since she was fed up with the relationship between her and the accused. She also confirmed the sexual relationship with the said accused while

she was fifteen (15) years of age as shown in her Instagram profile and this relating to the period mentioned in the charge sheet.

She also confirmed the rest of the report she gave to the police and also confirmed that she had this sexual relationship with the accused for a number of months prior to the date she lodged such report, and also that the sexual encounters were filmed with her consent.

At this stage it is important to point out that nowhere in the acts of these proceedings did the Attorney General request proof of any chats that could have been exchanged with accused by minor or with –Omissis– and moreover no tangible proof was exhibited or highlighted of the illicit videos that were allegedly taken by – Omissis– with the minor’s consent and that were spread on the web and neither of the illicit videos that were allegedly taken by accused of the same also with her consent.

The Court once again reiterates the grave lacunas by the Attorney General in using their discretion to summon witnesses and require further evidence to be produced. It is useless dumping numerous

amounts of data in the acts of the proceedings and then pretend the court to go through all of them and try to fit them itself in the various charges attributed to the accused. This task should be primarily that of the prosecution which in stage of compilation is directed by the Attorney General to prove the case beyond reasonable doubt.

The Court nonetheless went through most of the data exhibited by IT court expert Keith Cutajar and apart from numerous amounts of messages in a foreign language which is not familiar to this Court, some videos could be viewed of two persons having sexual intercourse. Such videos were mentioned by the prosecuting officer Inspector John Spiteri in his oral submissions.⁷ However even if it is amply clear that these two persons are having sexual intercourse with each other, none of the two could be identified in person.

Furthermore, it is very strange that these videos were not shown to minor –Omissis– when she was giving testimony in front of the Court differently composed so that she could identify or otherwise her presence and that of the accused in such videos. Such an

⁷ VID20200113WA0003, VID20200113WA0005, VID20200113WA0007, VID20200203WA0006, VID20200203WA0009.

absence is truly deplorable and shows how much the Attorney General did not view the documentation submitted in these proceedings.

Having said the above, this does not mean that the testimony of – Omissis– is being treated as invalid. Indeed, her testimony is one that is full of details as regards the sexual encounters between her and the accused and in fact the Court could also see, in the numerous files exhibited by Keith Cutajar, photos depicting her and the accused happily together and, in some others, even kissing. Her identity could be attested by this Court upon viewing the video conference in front of the court differently composed and by one document in said report of expert Keith Cutajar showing her Instagram account.

Therefore, on the above basis, the second charge against the accused is being deemed proven sufficiently. The same cannot be said as regards the offences under Sections 208A(1)(1B)(1C)(2)(7) and 208AA (1) and 208B(1)(2)(2A)⁸ since for this offences to be proven it is imperative that there is proof of the pornographic

⁸ Charges 3, 4, 5, 6, 7.

material involving the accused and minor, which in this case there is not.

Charges relating to offences against the police

Charges numbered 10 – 16 refer to the moments immediately preceding to the arrest of the accused and upon the arrest of the same.

1. Charges relating to the attempted arrest at St. Paul's Bay

From the testimony of PS1326 Roy Sciberras he said that from information by minor –Omissis– when she went to lodge the police report and upon further investigation, it resulted that Bojan Ambrus was using and driving a vehicle Audi A6 colour black and bearing registration number BRZ 111 whose owner is J Zammit Ltd. which vehicle resulted having both road license and insurance policy expired in 2018 and never renewed. He further states that on the 20th February 2020, when he went to arrest the accused, he found him in a vehicle Citroen Berlingo BCN 402 parked outside residence of complainants. He recalls that when he was

approaching the accused and was some twenty (20) metres away, the accused reversed and hit the service car (which was referred to it by all police officers involved as an unmarked vehicle) and kept driving in his direction thereby hitting his forearm and drove off at high speed. He confirms that he had slight injuries to his arm as attested by Dr T. Degorgio. All police officers also confirmed that they were in plain clothes when they went to arrest him. Also, confirmation was made by owner of said vehicle Matthew Alan Cauchi⁹ that the accused made use of such vehicle on a regular basis because of his work.

Therefore, it is amply clear that even though the accused testified on oath that he fled the scene because he feared for his life, from the testimonies tendered, particularly that of the officer directly involved PS Roy Sciberras which has no reason to doubt, the accused fled the scene when the said officer was still approaching him and was still about twenty (20) metres away. Therefore, a question arises as to how could the accused fear for his life when he could not even envisage what was going to happen? However in defence of the accused it is apt to state that he did not know that

⁹ Testimony of the 20th April 2021 – fol 256 et. seq.

the person approaching him was a police officer and neither was the vehicle he collided with was a police car and therefore since his only aim was to escape from the place, no intent to harm the police officer in a grievous manner was proven.¹⁰ Charges 11, 12 and 14 (as relating to the police officer's injuries) were proven by the testimony of police officers confirmed by the medical certificate of doctor as shown further above. Charge 13 was not amply proven since nowhere in acts of the proceedings was the vehicle of the police that is GVP 868 identified neither by model not even by registration number and this court cannot be certain as to whether the vehicle involved was the same one in report exhibited and marked as document MC1¹¹.

For completeness purposes, reference is being made to the offence regarding the driving of the accused in a reckless, negligent, and dangerous manner. The Court of Appeal had numerous occasions to define what this type of driving is. As regards reckless driving Judge Flores in the case by the names Police v. John Mamo¹² stated:

¹⁰ Charge number 10.

¹¹ Fol. 332 et seq.

¹² Decided QA on the 8th May 1971.

“Ir-reat ta' sewqan traskurat huwa reat ta' perikolu u hu intiz biex jigu prevenuti disgrazzji fit-toroq bl-uzu ta' karożzi b'manjiera riskjuza minghajr ma tittiehed dik il-prekawzjoni li c-cirkostanzi tal-mument jissuggerixxu regola fundamentali biex jigu evitati incidenti stradali. Hija l-prudenza li timplika li ma jittiehdux riskji zejda bla bzonn.”

Negligent driving was described in the case Police. Renald Vella ¹³ as:

“sewqan negligenti jfisser nuqqas ta' prudenza ordinarja li wiehed ghandu jadopera biex jevita s-sinistri stradali.”

Finally, as regards dangerous driving, reference is being made to numerous judgments by the Court of Criminal Appeal (Inferior Jurisdiction) whereby dangerous driving is described as that kind of driving that puts the life of a person or one's property in danger.¹⁴

¹³ Deciza Qorti Magistrati (Malta) fid-19 ta' Mejju 2014.

¹⁴ Vide Pulizija v. Alfred Mifsud decided by the Court of Appeal (Inferior Jurisdiction) on the 6th May 1997.

It is clear that since the accused drove off at such fast speed so as to avoid the police officers thereby hitting one of them in the arm, such driving is to be considered as dangerous driving. It is to be made clear that once the driving is being considered as dangerous, naturally reckless and negligent driving are also comprised in said definition.

2.Charges relating to the arrest of the accused in Mellieha

These refer to charges number 15 and 16 and deal with the offences under Chapter 65 and 104 of the Laws of Malta. Indeed, it is being attributed to the accused that on the same day of the 20th February 2020 when he was in Mellieha later in the afternoon, he was caught driving a vehicle model Audi bearing registration number BRZ 111 when it was not covered by a license to drive and without the necessary insurance cover.

From the acts of the proceedings, it resulted that this vehicle was in the name of a certain James Zammit and its license was valid up to the 27th February 2017¹⁵ and therefore when it was found by

¹⁵ Dok. KC1 – fol 73.

police at Mellieha it had no cover. As regards the actual use of the vehicle Audi, it emerged from testimony of PS575 Mark Tonna and PC1507 Ian Borg, that they visibly saw the accused driving said vehicle around the area of Triq l-Gholjiet Mellieha where they immediately stopped the vehicle and proceeded with his arrest. As to the insurance cover, it is evident that since the car Audi bearing registration BRZ 111 did not have a valid license to be driven, consequently accused could not have a valid insurance cover to drive that car. Indeed, in cases like this; as Chapter 104 prescribes; the onus of proof of possession of insurance cover is passed to the accused. Nowhere in these acts did he prove or in any manner cast a shadow of doubt that he possessed it. Therefore charges 15 and 16 are proven beyond reasonable doubt.

Recidivism

Evidence that corroborates this aggravation was made through testimony of Inspector John Spiteri dated 19th September 2022 whereby he presented documentation pertaining to Canadian authorities¹⁶ for offences relating to child abuse and possession of

¹⁶ Dok. JSY – fol 520 et seq.

child sex abuse material against Bojan Ambrus (DOB 1980–August–10) dating from 2015 until 2017. Nowhere in such documents were any additional information regarding the person convicted was given. Finally, the only document that was presented was a conviction sheet with no judgments pertaining to such conviction sheet and therefore this aggravation cannot be entertained successfully.¹⁷

Decide

On the above basis and upon seeing Articles 17(b), 18, 204C (1), 221(1) of Chapter 9 of the Laws of Malta and Article 15(1)(a) (2) of Chapter 65 of the Laws of Malta, Article 67(1) S.L. 65.11 of the Laws of Malta, Article 15(1)(a) (2) of Chapter 65 of the Laws of Malta and Article 3(1) (2)(a) (2A) of Chapter 104 (by application of Article 55(1) of Chapter 65) of the Laws of Malta, finds the accused **Bojan Ambrus** guilty of charges two (2), eleven (11), twelve (12), fourteen (14) (which is absorbed in charge twelve (12) due to it being a contravention), fifteen (15) and sixteen (16) and condemns him to six (6) years and five (5) months effective imprisonment together

¹⁷ Vide Appeal 255/2022 Police. Christopher Gatt (dec 5th September 2024 per Judge Dr. Neville Camilleri).

with a twenty (20) month suspension of his driving license whilst acquitting him from charges one (1), three (3), four (4), five (5), six (6), seven (7), eight (8), nine (9), ten (10) and thirteen (13) since they were not proven according to law.

Ft./Dr Claire L. Stafrace Zammit B.A., LL.D.
Magistrate

Benamina Mifsud
Deputy Registrar