



## **The Court of Magistrates (Malta) as a Court of Criminal Judicature**

### **THE POLICE (INSPECTOR RACHEL AQUILINA) V. NICUSOR TEODOR ADOCHITEI (ID. 139149A)**

**MAGISTRATE: DR. VICTOR G. AXIAK**

**08/07/2025**

THE COURT,

having seen the charges preferred against Nicusor Teodor Adochitei, 23 years of age, son of parents not known, residing at 91, Triq l-Annunzjata, Tarxien, born in Romania on the 20 of April 2002 and holder of identity card number 139149A (hereinafter “the accused”), who was arraigned before the Court and charged with having on the 19th of December 2022 at about 00.48 hrs in Triq il-Kbira San Ġużepp, Hamrun, whilst driving motorcycle make GT-K-125 with serial number JLM20160405249:

1. Drove the mentioned m/cycle in a dangerous manner (Sec. 15(1)(a)(2) Chap. 65).
2. Drove the mentioned m/cycle in a negligent manner (Sec. 15(1)(a)(3) Chap. 65).
3. Drove the mentioned m/cycle when it was not licenced by the Authority for Transport in Malta to be used on the road (Sec. 15(1)(a)(3) Chap. 65).
4. Drove the mentioned m/cycle when it was not covered by a policy of insurance in respect of third party risks (Sec. 3(1) Chap. 104).
5. Had the mentioned m/cycle on the road, whether parked or in use, without a valid circulation licence, ore a circulation permit or a temporary licence disc issued by the Authority for Transport in Malta (Sec. 13(2) LS. 368.02).
6. Drove the mentioned m/cycle without having the registration number plate (Sec. 32(4) LS. 368.02).
7. Drove the mentioned m/cycle, plying on the road between sunset and sunrise, you failed to comply with such lighting requirements as may be prescribed (Sec. 49 Chap. 65).

**8. Drove the mentioned m/cycle without lights on the rear number plate or failed to keep it in good condition (Sec. 99 LS. 65.11).**

Having seen that the Prosecution requested that in case of guilt the accused be disqualified from all his driving licences for a period of time of not less than twelve months;

Having seen all the acts of the case including the current incident report and the affidavits of PS 2392 Martina Grech and Stephen Cachia;

Having heard the final oral submissions made during the sitting of the 4th of March 2025:

- for the Prosecution by Inspector Rachel Aquilina;
- for the accused by Dr Janine Depasquale,

gives the following

**Judgement**

1. In her affidavit **PS 2392 Martina Grech** *inter alia* declared that on the 19th of December 2022 at around 00:48 hrs the Hamrun Police Station received a call stating that there was a male driving a motorcyle in St. Joseph High Road without a license plate or license disc or lights. District Police reported on site and the driver was identified as the accused. The accused was informed that he couldn't drive the motor cycle illegally and he attempted to call a tow truck. The motorcycle was left in the Hamrun Police's garage and the accused signed a receipt showing that the Police were in possession of a GT-K-125 motor bearing serial number JLM20160405249 with no license plate, no license disc and no lights. An email was sent to Transport Malta regarding the mentioned motorcyle and they stated that they do not have a motorcycle bearing the same serial number registered with Transport Malta. The accused reported at the Hamrun Police Station again on the 19th of January 2022 stating that he consulted with his lawyer but did not give the name of the lawyer because he will be present in Court and the lawyer per se told him not to give his name. When the accused was told that on the 19th December 2022 a few minutes before 1 in the morning he was stopped by the Police since he was driving a motorcycle without a license disc, without a license plate and without lights the accused stated "That's correct". The accused was asked for documents to show that the motorcycle is his and he stated "So basically the motorcycle was sold second hand without documents from an anonymous person and this person told me that there is no such document for a pit bike or a mini motorcycle and this person told me that there is only a serial number that there is on the engine and on the motorcycle frame. I contacted this person from Facebook Marketplace and I bought it from him for

€1,200 and the meeting place was in Bugibba Square.” The accused was newly informed that charges will be issued against him.

2. In his affidavit **Stephen Cachia** *inter alia* declared that from investigations carried out in the records of the Authority for Transport in Malta it transpired that motorcycle make GT-K-125 bearing chassis number JLM20160405249 was not registered with the Authority on the 19th December 2022. Moreover, it transpired that the accused had no motorcycles registered on his name.
3. The Court at the outset feels that it ought to point out that the affidavit submitted by PS 2392 is not satisfactory from a legal point of view in the criminal field.
4. Primarily, the said officer did not identify those officials who actually reported on site and limited herself to the term “District Police” without in any way clarifying who these police officers were, and more importantly, whether she was one of them. Given that as a general rule, any testimony given by a witness should relate only to those facts that are known directly and personally to the said witness – having witnessed them first hand – the Court cannot rely on the version of PS 2392 as stated in her affidavit to ascertain what took place on the 19<sup>th</sup> December 2022 when the “District Police immediately reported on site”.
5. Secondly, the Court notes that while PS 2392 Martina Grech made reference to a receipt signed by the accused “*showing that the Police are in possession of a GT-K-125 motor bearing serial number JLM20160405249 with no license plate, no license disc and no lights*”, the said receipt was not submitted as evidence and no photographic evidence whatsoever of the said motorcycle was submitted by the Prosecution.
6. Thirdly, notwithstanding that the accused was questioned at Hamrun Police Station on the 19<sup>th</sup> of January 2023 in relation to the incident in question, having been informed of his legal rights beforehand including the right to legal assistance prior to, and during the interrogation. PS 2392 again does not specify who was present during the said interrogation (more importantly, whether she was present in person) which for all intents and purposes amounts to a confession by the accused with regard to almost all of the charges preferred against him.
7. Given that the only other affidavit, given by Stephen Cachia on behalf of Transport Malta, does not make reference to what took place on the date, at the time and in the

place in question, the Court considers that the Prosecution failed to prove the charges beyond a reasonable doubt.

**Decision**

- 8. For the abovementioned reasons, the Court acquits the accused of all the charges due to lack of evidence.**

**V.G. Axiak**  
**Magistrate**

**Y. M. Pace**  
**Dep. Registrar**