



**QORTI TAL-MAGISTRATI (MALTA)
BHALA QORTI TA' GUDIKATURA KRIMINALI**

**MAGISTRAT DR.
CONSUELO-PILAR SCERRI HERRERA**

Seduta tat-23 ta' Gunju, 2003

Numru 443/2003

**Articles 41(1)(a), 284, 285
of Chapter 9 of the the Laws of Malta**

**The Police
Inspector Silvio Valletta
Inspector Pierre Micallef Grimaud
V**

**ALBENA IVANOVA KOSTADINOVA
MIGLENA MLADENOVA IVANOVA**

The Court

Having seen that the accused **ALBENA IVANOVA KOSTADINOVA** aged 20 years, daughter of Ivan Tomov and Marina Borisova nee Tomova, holder of passport number 327939660 and **MIGLENA MLADENOVA IVANOVA** aged 20 years, daughter of unknown father

and Mladenka nee Kostadinova holder of passport number 327940300 were arraigned before her charged with several acts committed by the offenders, even if at different times, constitute violations of the same provision of the law and committed in pursuance of the same design

1. At Valletta on the nineteenth of May 2003 at about 10.30am committed theft of a purse containing the sum of less than one hundred maltese liri and other personal belongings to the detriment of Teresa Taylor.

2. On the twenty second of May 2003 at about 11.00am with intent to commit a crime, manifested such intent by overt acts which were followed by a commencement of the crime [theft of purse containing the sum of one hundred maltese liri] which crime was non completed in consequence of some accidental cause independent of the will of the offenders.

Having heard all the evidence brought forward by the Prosecution and the accused Miglena Mladenova Ivanova give evidence voluntarily and out of her own accord went on to decide on the merits of this case.

On the 25th May 2003 Desiree Byatt gave evidence and explained how when she went to Valletta to settle some dues she met the accused in a stationery shop particular when she was looking for a card to send to her friend overseas.

She explained that whilst she was choosing a card, she recollected seeing the accused beside her and in particular Miglena Mladenova Ivanova brushing beside her whilst the strap of her shoulder bag kept moving. She thought that both accused were up to something thus she informed the Police about them and as she opened her bag, she found out that her purse went missing with a small amount of money and her credit cards. She only opened her bag after this incident and it was then that she immediately noticed that her purse went missing.

Teresa Taylor testified on the 28th May 2003 and explained a similar circumstance that whilst she was looking at some things on display inside a shop in Valletta known by the name of Sitar, she saw the accused Miglena Mladenova Ivanova beside her pushing her about. She found her chain that was around her neck opened and at her waist inside her clothes. The moment she left the shop and went to catch a bus, she realised that the bag went missing. She did not notice anybody tamper with her bag whilst in the shop but noticed it missing a short time after. In it she had forty pounds sterling, twenty maltese liri, a lottery ticket and some small change. The locket hanging on the chain fell to her waist but luckily she found it.

As she was asked whether she saw the accused Miglena Mladenova Ivanova touch her bag, the witness replied no, however, she stated that she felt the accused touch her continuously she also recalls the person of Miglena Mladenova Ivanova well inspite not being shown an identification parade.

Both accused released a statement a tempo vergine of the investigation, which statements are both dated 23rd May 2003 and are exhibited in these proceedings.

From a through examination of same, it transpires that both accused denied their alledged participation in the crimes attributed to them and said that they were in Valletta shopping.

The accused Miglena Mladenova Ivanova gave evidence in Court viva voce on the 10th June 2003 and denied any alledged participation in the crime of pick pocketing. She stated that she only saw the witnesses of the Prosecution for the first time in Court whilst giving evidence. Asked whether she brushed aside anybody in particular she replied that it could be possible since the shops in Malta are full of people.

The Court thus noticed that the Prosecution has charged the accused with two offences; one of simple theft to the

detriment of Teresa Taylor, and the other of attempted theft to the detriment of Desiree Byatt.

Regarding the last charge of theft the Court has the following considerations to make.

a. Teresa Taylor does not make any reference to the accused Albena Ivanova Kostadinova unlike the co-accused. She centers all her evidence around the accused Miglena Mladenova Ivanova.

b. She explained how the accused Miglena Mladenova Ivanova brushed against her covered her head with a coral colour shirt looked down on her through a mirror which stood high above her and shortly after found her purse missing.

The witness **Teresa Taylor** was very clear about this description and this the Court has no doubt in finding the accused Miglena Mladenova Ivanova guilty of the charge of simple theft. The Court finds the evidence tendered by Teresa Taylor much more credible than that of the accused Miglena Mladenova Ivanova and undoubtedly much more worthy.

It however does not find the accused Albena Ivanova Kostadinova guilty of this offence of simple theft and acquits her from such charge.

With regards the second charge, of attempted theft, the Court noticed that in actual fact effective theft was committed and not just an attempt and this to the detriment of Desiree Byatt who recognised both accused in Court as being in the shop, brushing her aside shortly before she noticed that her purse went missing.

However, due to the fact that the offence of theft is not incorporated in the charge of attempted theft, the Court acquits both accused from this charge, and this in line with the judgement given by the **Court of Appeal on 18th March 1997** in the names **Police v Paul Lughermu**, which held "*it-tentattiv ta' serq huwa kompriz w involut fis-serq imma mhux vice versa.*".

The Court saw the relevant sections at law in particular Section 41(1)(a), 284, 285 of Chapter 9 of the Laws of Malta and decides to find the accused Miglena Mladenova Ivanova guilty of the offence of simple theft to the detriment of Teresa Taylor and acquits her from the second charge of attempted theft to the detriment of Desiree Byatt and finds the co-accused Albena Ivanova Kostadinova not guilty of both offences and acquits her from both charges.

With regards to the ideal punishment to be awarded to Miglena Mladenova Ivanova, the Court noticed that these offences are being committed very often and this punishment should serve as a deterrent to others.

The Court noted that according to Section 285 of Chapter 9 of the Laws of Malta, the period of punishment applicable to this offence range from one month to six months and this after taking into consideration the nature of the theft in question which was little, the Court decides to convict the accused Miglena Mladenova Ivanova for a period of imprisonment of two months from which period the time she spent under preventiv arrest has to be reduced.

-----TMIEM-----