



**COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE**

**MAGISTRATE DR.
JACQUELINE PADOVANI**

Sitting of the 24th July, 2008

Number 655/2008

POLICE
INSPECTOR KEITH ARNAUD
VS
OMISSIS A

The Court,

Having seen the charges brought against the accused Omissis A, omissis years, son of omissis and omissis, born in omissis, holder of omissis identity card number omissis.

And is accused that on the 23rd July 2008, at about 14:00hrs, from residence number omissis, committed theft of money, which exceeds twenty-three euro and twenty-nine cents (23.29), but not two hundred and thirty-two euro and ninety-four cents (232.94), to the detriment of Omissis B from Omissisy.

While I present the omissis identity card of said Omissis A, I ask the court that this case should be investigated according to law.

Having heard the evidence tendered on oath;

Having seen the record of the proceedings;

Having seen the plea of guilt tendered by the accused.

Having seen the confirmation of the guilty plea of the accused after the Court accorded the accused a reasonable time within which to reconsider.

Having heard the oral submissions of the parties;

Considers:-

The facts of this case are to the effect that the Police were conducting an investigation to the theft of moneys of three foreign students who were living in the same premises. The Police in fact, solved the case and the student (A omissis National) pleaded guilty to having stolen money belonging to three other foreign students, one of which was the accused Omissis A friend, called by the name of Omissis C. The Omissis student, in the course of the Court proceedings had paid back all the money that he stole to only two of the three students so that the third student (Omissis C) who had had to return back home, before the Court proceedings, was left without compensation.

The accused in this case, Omissis A, upbraided the Authorities, especially the Police, about this unfair state of affairs and was very upset and angry about the fact that the Omissis student was going to get away with not paying his best friend.

It was in these circumstances and after being disillusioned by what he perceived to be an unjust state of affairs, that he proceeded to go into the Omissis National's room to

take the amount of money that was due to Omissis C so that he could redress the injustice.

The Prosecution charged the accused with theft and no other subsidiary charge.

The accused admitted and confirmed his admission and stated all the circumstances of the case.

The Prosecuting Officer, in fact, confirmed to the Court, how angry the accused, Omissis A, was at the fact that the Omissis National was not going to refund the money stolen from Omissis C.

In view of these circumstances, it is the Court's considered opinion, that some of the essential elements of the crime of theft, i.e. the element of profit and the element of intent do not subsist and without the concurrence **of all the essential elements of 'theft'**, the Court can find no guilt in a person charged.

Moreover the Prosecution failed to charge the accused with the subsidiary charge of the offence of 'raggionfattasi' according to Article 85 of the Criminal Code which is the offence that perfectly fits the circumstances of the case.

In these circumstances the Court is in duty bound to refer to Article 392A(3) of Chapter 9 of the Laws of Malta which dictates;

"Nevertheless, if there is good reason to doubt whether the offence has really taken place at all, or whether the accused is guilty of the offence..."

In these circumstances the Court finds the accused not guilty as charged and acquits him of all charges brought against him.

< Final Judgement >

Informal Copy of Judgement

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