



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

**MAGISTRATE DR.
CLAIRE-LOUISE STAFRACE**

Sitting of the 17 th December, 2012

Number. 824/2012

**The Police
(Inspector Jurgen Vella)**

Vs

Mohammed Haji Abdilwahid Nur

The Court,

Having seen that the accused Mohammed Haji
Abdilwahid Nur holder of Identity Card number 36750(A):

was charged with having on the 29th May, 2012 at about
17:30hrs in Marsa Open Centre and on these islands,
committed theft of mobile phone, which theft is
aggravated by amount which exceeds two hundred and

thirty-two euro and ninety-four cents (232.94), done to the detriment of Graba Nomoko and/or other persons;

After seeing that after accused declared that he does not speak and understand the Maltese language, proceedings were taken in English.

After seeing examination of accused whereby they pleaded not guilty to the charges brought against him. After seeing consent of Attorney General at fol 5 whereby proceedings were to be taken summarily.

Considered that in the statement of accused, he denied from the start taking such mobile phone from Graba Nomoko from Tiger Bar in Marsa. Infact he claimed that he indeed was drinking with this man on the night of 29th May, 2012, but as regards the mobile phone, he claimed that when he went in the bar to buy some cigarettes and came out, Graba asked him where his mobile was but accused told him that he did not see it, and continued drinking together. He claimed that Graba was drunk but he was not.

From the evidence of Graba Nomoko on the 20th August 2012 it transpired that the two were indeed drinking together, but the version of events is a bit different. Graba claimed that he lent his mobile to accused to call somewhere but did not get through. After ten minutes accused tried calling again, went out from bar and when he came back in Graba asked him where the mobile was and accused told him that he did not take it. He confirmed that the phone was an HTC worth three hundred and twenty Euro (€320). On counter examination witness then declared that him and accused were drinking outside.

The Court seen also the evidence of the accused whereby he reiterated his position given in the statement but added that after that night that him and Graba were drinking together, they drank together again for three more nights and then after three months he was arrested by the police because of this case. He claimed that at the end both of them were drunk.

The Court considers this case to be typically a case of just two main witnesses whereby the two are different and therefore the Court has to see which evidence is the most credible.

It was shown that the accused's version of events was always constant from the beginning, that is when he gave his statement to the police till the very end. Then there is the evidence of the complainant Graba Nomoko saying that indeed the accused stole the said mobile.

After having considered the fact that version of events of accused was always constant from the start and after considering the version of complainant to be surreal in the fact that accused might have taken mobile, gone out and then comes back in without it, this Court feels that the most credible version is that of the accused.

Therefore and after seeing Article 261, 267 of Chapter 9 of the Laws of Malta finds accused not guilty of the charge brought against him and frees him from it.

< Final Judgement >

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