



MALTA

**COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE
MAGISTRATE DR.
GABRIELLA VELLA**

Sitting of the 9 th October, 2014

Number 968/2014

**Police
(Inspector Priscilla Caruana)**

**Vs
Abdiwahab Ahmed Ali**

The Court,

After having seen the charges brought against Abdiwahab Ahmed Ali, thirty (30) years of age, born in Mogadishu, Somalia, on the 1st January 1984, son of Ahmed Ali and Faluma, residing at No.184, High Street, Hamrun and holder of Identity Card Number 55013(A) and Police Number 09D128, of having:

1. During the early hours of the 5th October 2014 committed a theft of a notebook of the make Samsung from residence No.61, JoePaul App. Penthouse number 3, Triq il-Bronja, Zurrieq, which theft exceeds the value of two hundred and thirty two Euros and ninety four cents (€232.94) but does not exceed the value of two thousand three hundred and twenty nine Euro and thirty seven cents (€2,329.37) and is aggravated by amount, person, place and by time, to the detriment of Roelof Henk Meinders;
2. On these Islands on the 5th October 2014, misapplied, converted to his own benefit or to the benefit of any other person the vehicle bearing Registration Number EAQ-528 which has been entrusted or delivered to him by Roelof Henk Meinders under a title which implies an obligation to return such vehicle or to make use thereof for a specific purpose;
3. On the 5th October 2014 at about 9:25a.m. near the Marsa Open Centre, Jetties Wharf, wilfully committed any spoil, damage or injury to or upon the Marsa Open Centre gate, which damage does not exceed two thousand five hundred Euro (€2,500) but exceeds two hundred and fifty Euro (€250) to the detriment of the Government of Malta or any other person;
4. On the same day and under the same circumstances on these Islands driven the vehicle of make Hyundai bearing Registration Number EAQ-528 in a reckless, negligent or dangerous manner;

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5. On the same date and under the same circumstances driven or attempted to drive or was in charge of the vehicle bearing Registration Number EAQ-528 on a road or other place if he was unfit to drive through drink or drugs;
6. Driven or attempted to drive or was in charge of the vehicle bearing Registration Number EAQ-528 on a road or other place after having consumed so much alcohol that the proportion of his breath, blood or urine exceeds the prescribed limit;
7. On these Islands on the 5th October 2014, failed to observe the bail conditions imposed by the Court of Criminal Judicature presided by Magistrate Dr. A. Micallef Trigona LL.D. on the 23rd July 2013 in breach of Section 579(2) of Chapter 9 of the Laws of Malta;

After having considered the requests by the Prosecution for the Court to: (a) revoke bail granted to the accused and order his re-arrest as indicated in Section 579(3) of Chapter 9 of the Laws of Malta; and in case of guilt to (b) disqualify the accused from holding or obtaining a driving licence;

After having examined all documents forming part of the records of these proceedings marked Doc. "A" to Doc. "I";

After having heard the accused plead guilty to the charges brought against him, and this after the Court in terms of Section 534AB of Chapter 9 of the Laws of Malta, informed him of his right, amongst others, to remain silent, and notwithstanding the fact that the Court in terms of Section 453(1) of Chapter 9 of the Laws of Malta, also warned him in the most solemn manner of the legal consequences of his guilty plea after having given him sufficient time within which to reconsider and withdraw his guilty plea;

Considers:

The accused is being charged with having: (i) during the early hours of the 5th October 2014 committed a theft of a notebook of the make Samsung from residence No.61, JoePaul App. Penthouse number 3, Triq il-Bronja, Zurrieq, which theft exceeds the value of two hundred and thirty two Euros and ninety four cents (€232.94) but does not exceed the value of two thousand three hundred and twenty nine Euro and thirty seven cents (€2,329.37) and is aggravated by amount, person, place and by time, to the detriment of Roelof Henk Meinders; (ii) on these Islands on the 5th October 2014, misapplied, converted to his own benefit or to the benefit of any other person the vehicle bearing Registration Number EAQ-528 which has been entrusted or delivered to him by Roelof Henk Meinders under a title which implies an obligation to return such vehicle or to make use thereof for a specific purpose; (iii) on the 5th October 2014 at about 9:25a.m. near the Marsa Open Centre, Jetties Wharf, wilfully committed any spoil, damage or injury to or upon the Marsa Open Centre gate, which damage does not exceed two thousand five hundred Euro (€2,500) but exceeds two hundred and fifty Euro (€250) to the detriment of the Government of Malta or any other person; (iv) on the same day and under the same circumstances on these Islands driven the vehicle of make Hyundai bearing Registration Number EAQ-528 in a reckless, negligent or dangerous manner; (v) on the same date and under the same circumstances driven or attempted to drive or was in charge of the vehicle bearing Registration Number EAQ-528 on a road or other place if he was unfit to drive through drink or drugs; (vi) driven or attempted to drive or was in charge of the vehicle bearing Registration Number EAQ-528 on a road or other place after having consumed so much alcohol that the proportion of his breath, blood or urine exceeds the prescribed limit; (vii) on these Islands on the

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5th October 2014, failed to observe the bail conditions imposed by the Court of Criminal Judicature presided by Magistrate Dr. A. Micallef Trigona LL.D. on the 23rd July 2013 in breach of Section 579(2) of Chapter 9 of the Laws of Malta;

The accused declared that he is guilty of the charges brought against him and in the light of such admission the Court finds him guilty of the first (1st), second (2nd), third (3rd), fourth (4th), fifth (5th) and sixth (6th) charges brought against him and it also finds him guilty of the seventh (7th) charge brought against him.

In so far as concerns punishment the Court took into account the fact that the accused registered a guilty plea at an early stage of the proceedings and that he is a first time offender however, it also took into account the nature of the offences with which he is being charged and admitted by him, the fact that he was driving a vehicle under the influence of alcohol and also the fact that the accused committed these offences when he was under an obligation not to commit an offence of a voluntary nature during the term of bail.

Therefore after having read and considered Sections 261, 267, 268, 269, 270, 293 of Chapter 9 of the Laws of Malta, Section 325(1)(b) of Chapter 9 of the Laws of Malta and the second proviso of this Section, and Sections 15(1), 15A and 15B of Chapter 65 of the Laws of Malta the Court reiterates that it is finding the accused guilty of the first (1st), second (2nd), third (3rd), fourth (4th), fifth (5th) and sixth (6th) charges brought against him and condemns him to ten (10) months imprisonment and to the payment of a fine (*multa*) amounting to six hundred and fifty one Euro and thirty six cents (€651.36) equivalent to the damage caused to the gate of the Marsa Open Centre, and in terms of Section 15(2) of Chapter 65 of the Laws of Malta the Court is disqualifying the accused from holding or obtaining a driving licence for a period of three (3) months from date of this judgment.

In terms of Section 14 of the Chapter 9 of the Laws of Malta the Court orders that the fine (*multa*) being hereby imposed on the accused be paid by him within one (1) month, which term, in view of the fact that the accused is currently unemployed, shall commence to run after the expiration of the total term of imprisonment being imposed on the accused by this judgment

Furthermore after having considered Section 579(2) and (3) of Chapter 9 of the Laws of Malta, the Court reiterates that it is finding the accused guilty of the seventh (7th) charge brought against him and whilst revoking the bail granted to the accused by the Court of Magistrates (Malta) as a Court of Criminal Judicature by a decree dated 23rd July 2013, orders his re-arrest and condemns him to one (1) month imprisonment. Under the circumstances of this case the Court is not hereby ordering the forfeiture in favour of the Government of the sum of €10,000 set as a personal guarantee in the afore-mentioned decree of the 23rd July 2013.

< Final Judgement >

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