

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

Magistrate

Dr Rachel Montebello B.A. LL.D.

Compilation No: 721/2018

The Police

(Inspector Godwin Scerri)

vs

VASILICA TIBERIU CIUBOTARU

(ID: 79765A)

Today, 11th July 2019

The Court,

Having seen that the accused **VASILICA TIBERIU CIUBOTARU**, holder of the identity card number 79765A was accused of having on the 20th August 2018 at about 04:00hrs in Carmelo Delucca Street, Saint Paul's Bay caused voluntary damages to the vehicle bearing registration number TDI-111 make Land Rover to the detriment of James Chetcuti.

And having on the same date, time, place and circumstances caused voluntary damages to the establishment 'Two Cherries' situated in St. Paul's Bay to the detriment of James Chetcuti.

Having seen that during the hearing of the 21st February 2019, after having heard the accused declare that he does not understand the Maltese language but understands the English language, the proceedings were ordered to be conducted in the English language;

Having seen that the Prosecution, during the same hearing of the 21st February 2019, presented a charge sheet in the English language in substitution of the charge sheets found at fol. 1 and 2 of the acts of the proceedings.

Having seen that the accused, during the hearing of the 9th July 2019, admitted to the charges brought against him;

Having seen that the accused, even after having been afforded time to reconsider his guilty plea and to consult with his lawyer, and after having been informed by the Court of the consequences of such guilty plea and the punishment attached to the charges brought against him, confirmed his admission of guilt;

Having heard the submissions of both the Prosecution and the defence regarding the punishment to be inflicted on the accused as a consequence of his admission of guilt;

Having heard all the evidence and having seen all documents exhibited;

Having seen all the acts of the proceedings;

Having seen that the proceedings were adjourned until today for the delivery of judgement;

Having considered;

That the accused, in the presence of his legal aid counsel and voluntarily, admitted to and registered a guilty plea in respect of both charges brought against him, that is of having caused voluntary damages to the detriment of James Chetcuti.

Regarding the punishment to be inflicted upon the accused as a result of his guilty plea, the Court took several factors into consideration, including the nature of the crime of which the accused is being found guilty, which is that of causing voluntary damage to property and also the circumstances in which the crime was committed.

From the evidence heard by the Court, namely that of WPS 224 Suzanne Mifsud and of James Chetcuti, the injured party, it clearly results that during the commission of the crime, the accused was in a state of anger and agitation and was not acting normally. He was found to be shouting for the Police to be called, while throwing several contents of his apartment, including a gas cylinder, clothes horse, spade and broom, onto the road below damaging the injured's party's vehicle and private property in the process. WPS224 Suzanne Mifsud testified that the Police could not calm the accused down, while James Chetcuti, who is acquainted with the accused, testified that the accused claimed that he wanted to call the Police as he could not find his wife. Indeed it results from the evidence adduced that at the time of the incident, the accused's wife and son were not found in the apartment.

The Court took note of the facts reported in the Current Incident Report relating to the incident¹, which affirm the Court's belief that this incident was borne of excessive consumption of alcohol that led to a family dispute which, in turn,

¹ Dok. SM3 fol. 26 *et seq.*

caused the accused to become aggressive. Although the Court cannot condone such behaviour, and neither does it consider that the accused's actions are excusable in the circumstances, it is also evident that the accused immediately regretted his actions and was willing from the very outset to compensate the injured party for the damage caused thereby.

The Court also understands that the accused's only contestation in these proceedings, which led to a delay on the part of the accused to effectively compensate the injured party for the damages suffered, revolved around said injured party's valuation of the damages claimed to have been suffered, which valuation the accused claimed was excessive. The acts of the proceedings show that the sum originally quantified and claimed by James Chetcuti by way of damages suffered as a result of accused's actions was that of €6,980.20².

Indeed, after the evidence relating to the estimate of the damages was heard by the Court and upon both parties having eventually reached an agreement on the amount representing the actual damages caused to the detriment of the injured party as a result of this incident, which damages were quantified in the sum of three thousand four hundred and sixty Euro (€3,460), the accused paid the said sum unto the injured party who accepted such payment in full and final settlement of his claims. Thereupon, the accused also proceeded to admit his guilt and immediately registered an unconditional admission to the charges brought against him.

Collectively, these circumstances also convince the Court that, as submitted by the defence during the hearing of final oral submissions, the accused evidently regrets the incident, his actions and also having caused damage to third party property.

² Total of Dok. SM1 and SM2, fol. 25.

Consequently, although the crimes of which the accused has pleaded guilty, are punishable by imprisonment for a term of not less than 18 months as provided by Article 325(1)(a) of the Criminal Code, in the particular circumstances of this case and taking into account the considerations already made as well as the fact that it was not shown that the accused has any previous convictions, the Court believes that it would not be expedient in this case to inflict punishment. However, at the same time, the Court deems that the accused would need to show that he can effectively steer clear of any further criminal behaviour.

DECIDE

For these reasons, the Court, after having seen Article 325(1)(a) of Chapter 9 of the Laws of Malta, finds VASILICA TIBERIU CIUBOTARU guilty upon his own admission of the charges brought against him, that is of having caused voluntary damage to the detriment of James Chetcuti, and upon application of Article 22 of Chapter 446 of the Laws of Malta, discharges him subject to the condition that he does not commit another offence within a period of three (3) years from today.

The Court explained in ordinary language to VASILICA TIBERIU CIUBOTARU that if he commits another offence during the period of conditional discharge, he will be liable to be sentenced for the offences of which he is presently being found guilty.

**Dr Rachel Montebello
Magistrate**