

Kopja Informali ta' Sentenza



MALTA

**QORTI TAL-MAGISTRATI (GUDIKATURA
KRIMINALI)
KUMPILAZZJONIJIET - NORMALI**

**MAGISTRAT DR.
HAYMAN MIRIAM LL.D.**

Seduta tal-11 ta' Ottubru, 2002

Numru 108/2001

**The Police II-Pulizija
(Sp. Pio Pisani)**

VS

**Oliver Clare 55 years, son of Alfred and
Elizabeth nee Hargan, born at Glasgow,
Scotland on the 20/3/1945 and residing at
Ambra, Flat 2, Triq il-Mistrieh, Bugibba,
Identity card number 22387 (A).**

Today 11th October, 2002.

The Court,

Has seen the charge against the above mentioned Oliver Clare accused for having during the period 10/1/1992 and 14/5/1999, committed several acts even if at different times which constituted violations of the same provision of the law, and were committed in pursuance of the same design, by artificial means capable of effecting the unlawful use or consumption of electricity current, or capable of preventing or altering the measurements or registration on the meter of the quantity used or consumed, committed theft of electricity current amounting to Lm 666.73c 6 at premises styled "Ambra Flt No 2, Triq il-Mistrieh, Bugibba to the detriment of Enemalta Corporation which theft is aggravated by means, time and amount.

Accused also for having during the same period broken or damaged the wires or cables of the electricity service or of the meter thereof, or of any seal of the meter which damage amounts to Lm 6 to the detriment of Enemalta Corporation.

Having seen the consent of the Attorney General for summary proceedings.

Having seen that the accused has no objections to such proceedings and furthermore that he pleaded not guilty to the charges brought against him.

Considers

That it transpires from Mr Decelis deposition that the Corporation drew up three estimated bills relating to this charge, one to the amount of Lm 600, the second to the amount of Lm 457.33 and the last to the amount of Lm 228.27. The first estimate was done by the Corporation from the period of 1994 to 1999 because it was believed that Mr Clare resided in the site in question all through. The second was computed from September 1993 to the date of inspection based on 10 units daily. The third reading on the accused's insistence was based on the

readings taken by the new meter installed by Enemalta after the inspection.

Mr Decelis under cross examination admitted to the following facts:

That the Water Services Corporation knew as early as 1992 that the relative meter was not functioning "stopped", also that the Corporation issued service bills between the year 1992-1996 knowing that the meter was in this condition.

That the Corporation could have taken earlier action to replace the faulty meter.

That between the period 1992-1996 only estimates (water consumption) were issued. This lack of estimates contributed to the bill of unpaid electricity.

Mr Decelis also agreed that due to an interchange of meter, Mr Clare had acceded to the Water Services Corporation and this triggered the actual complaint.

Mr Decelis also stated that Mr Clare settled the last estimate without prejudice to the case under examination even though accused estimated the unpaid used electricity to the amount of Lm 160.

Mr Clare also exhibited his passport proving that he was present in Malta from the 9th October 1991 and departed on the 22nd of the same month and year. He returned on the 5th October 1992.

Mr Clare also categorically denied ever having tampered with the meter as charged. He further exhibited documents proving that he was in the habit of advancing payments against future electricity. He also exhibited his pay slip thus arguing that he was in no financial dire means to have to avoid paying electricity bills.

Considers

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That it results that although Mr Clare had acquired the premises in the 1980s however he used it as his residence later, in 1994 when he was employed in Malta.

Furthermore it has also been proved that even the Corporation was not sure about the damage it sustained in its claim of the alleged stolen electricity.

It is the opinion of the Court that Mr Clare managed to rebut the onus of proof shifted on him by section 264 Chapter 9 to the degree of probability as required by law, by the evidence he presented in Court. Then the Court acquits the accused from the charges brought against him.

Magistrat Dr Miriam Hayman LL. D.