



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

**MAGISTRATE DR.
JACQUELINE PADOVANI**

Sitting of the 21 st June, 2007

Number. 1016/2003

POLICE
INSPECTOR IAN JOSEPH ABDILLA
VS
CHARLES FALZON
ANNE DORIS FALZON

The Court,

Having seen the charges brought against the accused Charles Falzon, 32 years, son of Antonio and Lena nee' Gusman, born in Clapham, England on the 22nd December 1971, and residing at Flat 14, Trejget il-Liedna, Block 13, Bieb 1, Santa Lucija, holder of identity card number 261603L, and Anne Doris Falzon, 23 yaers, wife of Charles, daughter of Alfred Mamo and Laura nee' Gusman, born in Clapham, England on the 9th October 1979, and residing at No 163, Arcade Street, Paola/ Flat 14, Block 13, Door 1, Trejget il-Liedna, Santa Lucija, holder of identity card number 302495M, and charge them with having in these Islands, on the 11th August 2003, and

in the previous days, by means of any unlawful practice, or by the use of any fictitious name, or the assumption of any false designation, or by means of any other deceit, device or pretence calculated to lead to the belief in the existence of any fictitious enterprise or of any imaginary power, influence or credit, or to create the expectation or apprehension of any chimerical event, made a gain of Lm186.53 to the detriment of HSBC Malta and Chains Supermarket, and this in breach of Section 308, 309 and 310 of Chapter 9 of the Laws of Malta.

And also for having forged any schedule, ticket, order or other document whatsoever, upon the presentation of which any payment may be obtained, or any delivery of goods effected, or a deposit or pledge withdrawn from any public office or from any bank or other public institution established by the Government, or recognized by any public act of the Government, and for having knowingly made use thereof of any of the instruments specified above, and this in breach of Sections 167 and 169 of Chapter 9 of the Laws of Malta.

And also, for having committed forgery of any authentic and public instrument or of any commercial document or private bank document, by counterfeiting or altering the writing or signature, by feigning any fictitious agreement, deposition, obligation or discharge, or by the insertion of any such agreement, disposition, obligation or discharge in any of the said instruments or documents after the formation thereof, or by any addition to or alteration of any clause, declaration or fact which such instruments or documents were intended to contain or prove, and for having knowingly made use of any of the false acts, writings, instruments or documents mentioned above, and this in breach of Sections 183 and 184 of Chapter 9 of the Laws of Malta.

And also, in order to gained any advantage or benefit for themselves or others, in any document intended for any public authority, knowingly made a false declaration or statement, or gave false information, and this in breach of Section 188 of Chapter 9 of the Laws of Malta.

And also, for having laid before the Executive Police an information regarding an offence knowing that such offence has not been committed, or for having falsely devise the traces of an offence in such a manner that criminal proceedings may be instituted for the ascertainment of such offence, and this in breach of Section 110(2) of Chapter 9 of the Laws of Malta.

The Court was gently requested that, in pronouncing judgment or in any subsequent order, sentence the persons convicted, jointly or severally, to the payment, wholly or in part, to the registrar, of the costs incurred in connection with the employment in the proceedings of any expert or referee, as per Section 533 of Chapter 9 of the Laws of Malta.

Having heard the evidence tendered on oath;

Having seen the record of the proceedings;

Having seen the consent of the Attorney General (document JA6 at page 29), and the consent of the accused (at page 11 and 12), so that the case will be dealt with summarily proceedings;

Having seen the decree of this Court of the 30th May 2006, wherein the Court upheld the separation of the proceedings due to the fact that the accused Charles Falzon had permanently left from Malta;

Having heard the oral submissions of the parties;

Deliberates:-

From the evidence of the Prosecution, it appears that on the 14th of August 2003, the Economic Crimes Unit received information from Mr Paul Mangony, in his capacity of Fraud Team Leader of the HSBC Card Product, that an HSBC Quick Cash Card had been stolen and subsequently, used fraudulently at the Chain Supermarket in Fgura on the 9th of August 2003. The card

in question, 5887008527561427 was registered in the name of the accused Charles Falzon and was used fraudulently at the Chain Supermarket to affect a purchase to the tune of one hundred and eighty six pounds and fifty three cents (Lm186.53).

Subsequently, Mr Falzon lodged a Police report 3/E/1999/2003, wherein he stated that his Quick Cash Card had been stolen in Birkirkara, and subsequently, used at the Chain Supermarket. Inspector Abdilla stated that he interviewed Daniel Micallef, in charge of the security system at the Chain Supermarket, who forwarded a copy of the close-circuit video in place at the same Chain Supermarket, together with the receipt of the transaction to the tune of one hundred and eighty six pounds and fifty three cents (Lm186.53).

After viewing the video images, Inspector Abdilla stated that the footage showed a man and a woman with three children affecting a large purchase at the same supermarket. The stills of the video footage were exhibited as document JA1 at page 20, and JA2 at page 21. The video was exhibited as document JA3.

Inspector Abdilla stated that the accused Charles Falzon was brought in for questioning, and after being shown the video footage, denied that the man shown in the video was in fact himself.

On the 23rd of August 2003, the accused and his wife were arrested, and the accused Anne Falzon recognized herself, her husband and her children, in the images document JA1 and JA2 that were shown to her. However, the accused Charles Falzon continued denying all this.

Anne Falzon also released a statement, document JA5, wherein she stated that she had signed the EPOS receipt.

In his statement, Charles Falzon stated that on the 9th of August 2003, between 12.45hrs and 13.00hrs, his wallet was stolen, he had phoned up a friend from the phone

box near Marks & Spencer, and asked a friend of his to come to his assistance, and he used his friend's mobile phone to phone the bank and make a stop payment on all the cards. The accused refused to give the particulars of this 'friend'. On being shown the images document JA1 and JA2, the accused Charles Falzon stated:

'The female resembles my wife. I also recognize the children as my kids. I do not know who the man in the picture is.'

The accused Charles Falzon confirmed that his wife had a Maruti Zen white car, and stated that the signature on the EPOS receipt to the tune of one hundred and eighty six pounds and fifty three cents (Lm186.53) was not his signature. He also stated that his wife, sometimes, signed, but that he did not recall the occasions. The accused Charles Falzon chose also not to answer other questions put by the Prosecution.

Anne Falzon, in her statement at page 26 et seq, stated that she was married to the accused, and confirmed that she was not present with her husband when he lodged the Police report about the stolen card. She confirmed that she went shopping at the Chain Supermarket on the 9th of August, and stated that she did not sign the receipt, and that she had given that answer because she was scared of having never been in a Police station before. Anne Falzon also stated that she had not been aware of the fact that her husband had lodged a report regarding lost bank cards, or that Charles Falzon had stated that he had never been to the Chain Supermarket. However, Anne Falzon said that her husband had told her that he had lost his wallet. She also stated that she did not remember having affected a purchase to the tune of one hundred and eighty six pounds and fifty three cents (Lm186.53), from Chain Supermarket.

Patrick Gauci, at page 30 et seq, stated that he works at HSBC Malta Plc, as a Fraud and Charge Back Official. He confirmed that the accused Charles Falzon had reported his Quick Cash Card stolen on the 9th of August at

14.25hrs, and this was confirmed later on in writing (vide document PG at page 35). Patrick Gauci also confirmed that the accused had disputed the transaction at the Chain Supermarket, amounting to one hundred and eighty six pounds and fifty three cents (Lm186.53) on the 9th of August, and this was also reflected in his letter document PG. Same witness confirmed Mr Charles Falzon's account number, which was solely in his name, and other particulars of the accused. Patrick Gauci, moreover, exhibited document PG1 which is the stolen report with reference to the same card.

Daniel Micallef, the Manager at the Chain Supermarket, Fgura, responsible for the security system of the same supermarket, stated that in August, members of the Economic Crimes Unit had spoken to him, he exhibited the relevant receipt which was marked as document C at page 42, and confirmed handing over the video footage of the date in question. Daniel Micallef confirmed the images document JA1 and JA2, and the video document JA3, and recognized the accused, as having been one of the newest clients of the supermarket.

Anne Doris Falzon stated that she was a housewife and did not work, and was on social welfare benefits for the last two years. She stated that she had four children, one of which had special needs, and in fact, was unable to walk at all.

Christopher Darmanin confirmed that the car Maruti Zen, ANN 979, belonged to Charles Falzon, Identity Card number 18159A.

Anne Doris Falzon stated that her husband was a sick man and in fact, suffered from schizophrenia, and that she had been married to him and had three children from this marriage and another child before this marriage. She stated that on the day in question, she had gone to the Chain Supermarket in Fgura, where she used to do her shopping ever since the supermarket had opened, that is for three years prior to the incident. She stated that she did her shopping once a month on a Saturday, and would

therefore, take her children along. She would affect a large shopping, usually in the region of between two hundred pounds (Lm200) and two and fifty pounds (Lm250), and instituted the size of the family.

On the date in question, it was her husband's idea to go shopping at this supermarket, for she usually went with her mother, and that after having done her shopping, her husband gave her his Quick Cash Card and told her to pay and went outside to smoke a cigarette. She admits to having signed the receipt, in spite of the fact that she was not a signatory on the card, and that he only did this with the permission or rather instigation of her husband. Anne Doris Falzon stated that when they got home, her husband informed her that he could not find his wallet. He did not inform her, however, that he was going to make any report whatsoever, and he did this on his own and without her knowledge.

Anne Doris Falzon stated that she is the mother of a disabled ten-year old daughter, who had just had a major operation, and it is very difficult for her to cope on her own after her husband abandoned her. She stated that her daughter has also kidney problems, and that the youngest child is a two and a half year old and that she could not live without her children, that she had never had a criminal record in her life, and never had been involved with the Police.

In cross-examination, Anne Doris Falzon stated that she only found out about the report lodged by her husband, after she got arrested. The accused Anne Doris Falzon denied that she was acting in collusion with her husband, in order to be able to get a refund of the money that they had in fact spent on the shopping at the supermarket. She stated that if she had known this was going to happen, she would have never accompanied her husband, and had she known his intentions, she would have definitely not taken her children with her on the date.

Lora Mamo, the mother of the accused Anne Doris Falzon, stated that her daughter had to take care of four

children, including a handicapped child, and had never in her life had any problems with the Police. She confirmed that she usually accompanied her daughter in her shopping at the Chain Supermarket once a month, and confirmed that she never got on well with her son-in-law Charles Falzon, who today is separated from her daughter.

Deliberates:-

In the case under examination, the Court is of the opinion that the Prosecution failed to prove that the accused Anne Doris Falzon was not in fact, a signatory on the Quick Cash Card issued in the name of the accused Charles Falzon.

In addition, it is evident that Charles Falzon would usually not only allow his wife to sign the Quick Cash Card receipt, but actually, instruct her to do so as it happened in this precise case.

The Court furthermore believes that the accused Anne Doris Falzon was not a party to the collusion evidently practiced here, and had absolutely no idea of the Police reports that the accused lodged at the Police station with regards to the stolen credit card, nor the reports signed by himself and lodged with HSBC.

It is the opinion of this Court, after having seen and examined at length, the evidence produced in this case, and in particular, the manner in which Anne Doris Falzon gave her testimony, that this is a case of the accused Anne Doris Falzon being more sinned against than sinning. The Court recognizes that the accused Anne Doris Falzon was abandoned by her husband Charles Falzon, who apparently suffers from schizophrenia, to cope with four children, one of whom is severely handicapped.

Indeed, the Prosecution failed to produce any evidence to show that Anne Doris Falzon was in fact working in

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conjunction with her husband, to defraud HSBC Malta Plc or the Chain Supermarket.

In view of all this, the Court finds the accused Anne Doris Falzon not guilty as charged and acquits her of all charges brought against her.

< Partial Sentence >

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