



MALTA

COURT OF MAGISTRATES (MALTA)
AS A COURT OF CRIMINAL JUDICATURE
MAGISTRATE DR.
JOSETTE DEMICOLI

Sitting of the 25 th August, 2014

Number. 736/2014

The Police

(Inspector Nicholas Vella)

Vs

Zivko Dragas

Magistrate Dr Josette Demicoli LL.D.

Today Monday 25th August, 2014

Case No: 736/2014

The Court,

Having seen the charge brought against Zivko Dragas, son of Slavko and Marija nee' Basic, born in Indija, Serbia on the 30th January 1956, and residing at 23, Triq Avertan Fenech, Mosta, holder of Serbian Passport 011735319 wherein he was charged with:

On the 7th August 2014 at around 0830hrs in these Islands in Triq Valletta, Mosta have committed theft from vehicle bearing registration number BBP739 which theft is aggravated by the nature of the thing stolen and amount, which theft amounts to more than 232.94 euro but less than 2329.37 euro.

Having seen all the acts and documents of the case.

Having heard evidence.

Having seen the consent of the Attorney General of the 9th August 2014 for the case to be tried summarily.

Having heard submissions by parties.

Considers:

The accused is being charged with theft aggravated by the nature of the thing stolen and amount.

It results from the acts of the case that on the 7th August 2014, John Mercieca parked his car bearing registration number BBP 739 in Valletta Road, Mosta at about 8am because he had an errand in the vicinities. The car has a technical fault in the central locking and it does not lock itself properly. He left his satchel containing some documents and a GPS in the case. After he finished, he left for work and did not realize immediately that his satchel was missing. When he arrived home at about 2pm he realized that he had not left the satchel at home and thus phoned Masco (a security system company) for their assistance to give

him the recording between 8am and 8.45am. He was given a copy by Masco and went straight to the Mosta Police Station. He declared that after having seen the footage he identifies the accused as being the person who stole his satchel. The injured party declared that someone found his satchel and took it to the Police Station. The documents were in the satchel but there was the GPS which approximately costs €300, Bank dongle and two apples missing.

The CCTV footage¹ was seen by Inspector Vella and WPS242 Rodianne Grixti from which it transpired that the theft was committed by an elderly person wearing a white t-shirt, dark trousers and a dark bag. Later on that same day, WPS247 was on patrol in the vicinities of Mosta Police Station and saw the accused with the same characteristics and clothes as on the CCTV footage and thus arrested him. When the police searched the flat where the accused resides they found nothing related to the theft.

The accused decided to take the witness stand. He denies committing the theft. He testified that he is in Malta as a tourist. However, he has no return ticket. His version of events is that on the specified date he left his flat where he is residing at the moment around 8.30am/9am to the closest market to buy food to cook for himself and flatmates. He was wearing red shorts and a red t-shirt in the morning. In cross-examination he stated that it could be that he stated in his statement that he was wearing a red shorts and a white t-shirt. His version of events was not corroborated in any manner.

This Court, after having seen the CCTV footage, cannot but find the accused guilty of the charge brought against him. The Court has examined in detail the *footage* of the CCTV recording exhibited by the prosecution. There is no doubt that the person appearing in the said footage is the person of the accused. The image portrayed in this footage is identical to the physical appearance of accused. At first it can be seen that at about 8.30am on the 7th August 2014 he was walking in Valetta Road, Mosta and noticed a satchel in the above-mentioned car. He

¹ Exhibited in the acts of the case as Dok NV1

waited a few minutes to see that no one was watching him and then he opened the rear door of the car, took the satchel and left. Although the accused stated in his statement that the person is similar to him but it is not him, the Court deems such a declaration as being untruthful. The Prosecution has in fact also filed in the acts of this case stills² taken from the footage and the clothes and bag which the accused was wearing when he was arrested and interrogated. They are the same clothes (white shirt and dark trousers) and similar bag which were worn by the accused on the day he stole the satchel.

Consequently the Court after having seen Sections 261(c)(g), 267, 271(g), 279(a), 280(1) and 20 of Chapter 9 of the Laws of Malta, finds the accused guilty as charged, condemns him to a period of twelve months imprisonment, which term of imprisonment after having seen Section 28A of the Laws of Malta is being suspended for a period of two years from today.

The Court warns accused with the consequences according to law if he were to commit another crime within the operative period of this judgment.

After having seen Section 28H of Chapter 9 of the Laws of Malta condemns accused to pay John Mercieca the sum of €250 within fifteen days from today.

< Final Judgement >

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² Dok NV2