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SIC MUR AD ASTRA

EDITORS
GERGELY GOSZTONYI
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Collection
of papers
on **Hungarian**
and **Croatian**
legal history 2024

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Josipa SUDAR: Case against Diletta – an early case of sorcery

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1. Introduction

Sorcery is a crime that was defined in several ways through the history. Both meaning of the crime and the proceedings to punish these crimes changed quite a bit. At its core, sorcery is considered as achieving success with mysterious forces and harming another.

In this paper I will present one of many cases of sorcery from Croatian history, a case against Diletta Michiel. Diletta was Venetian *nobilis domina*, a respectable member of society. Nevertheless, she was executed as sorceress. The goal of this paper is to show the proceeding against Diletta and all circumstances that were important to this case. Even if this case could seem quite simple at the first sight, it is much more complicated. It arises a lot of questions about the entire proceeding, people involved in it and other events that had influence on it.

The most significant source, or even the only one, is the Motovun document. It is very important in both historical and notarial sense. It is the basis for further knowledge and conclusions about what really happened to Diletta.

2. Early development of sorcery

Believing in sorcery has existed since ancient times. Comprehensive work on sorcery dating back more than 3000 years BC has been found in royal library in Nineveh.

Sorcery was considered as achieving success with mysterious forces beyond natural abilities of any human. Those mysterious forces aren't closely determined.¹

The dominant religion of a state has a great impact on the state's relation to the sorcery. All religions teach that there are spiritual, superhuman beings that significantly surpass man in terms of their physical and spiritual powers. Sorcery is understood as the connection of a man with these beings, whereby these beings enable man to achieve magical effects by putting their services at his disposal.

Monotheistic religions have always believed that the sorcerer's power is obtained through the connection of a man with evil spirits, demons, who make their services available under the condition that sorcerers must regard them as gods and give them the honor that belongs only to the God. On the other hand, polytheistic religions have a different attitude. They themselves nurture sorcery, especially to find out the future for state purposes, so their priests are constantly in touch with the world of spirits.

At certain times, the state prosecuted sorcery exclusively as an act of harming another. Achieving beneficial effects through sorcery was not punishable. The mysterious power of sorcerers instilled fear in people, so sorcerers were considered more dangerous than ordinary criminals. That's why they were punished harder.² Therefore, the state persecuted sorcerers primarily due to their forbidden connections with evil spirits and for apostasy from the state religion, in addition to the injuries the sorcerer inflicts on someone.

¹ BAYER, Vladimir: *Ugovor s đavlom, Procesi protiv čarobnjaka u Evropi a napose u Hrvatskoj [A contract with the devil, Trials against sorcerers in Europe, and especially in Croatia]*, 3rd edition, Informator, Zagreb, 1982, p. 19.

² *Ibid.*, pp. 20–21.

3. Trials against sorcerers in Croatia

Sorcerers were prosecuted in Croatia from the 13th century until the middle of the 18th century. From the 13th century, we find provisions against sorcery in the statutes of Dalmatian and coastal cities. Since statutes are written codifications of earlier customs, sorcerers were most likely persecuted much earlier. The authorities in those regions considered sorcery a serious crime for which the most severe possible punishment was provided, burning at the stake.

During the persecution of sorcerers two periods can be separated. The first period refers to the period in which the folk understanding of the crime of sorcery prevails among the state authorities. It is the understanding of inflicting severe damage on people through some mysterious power whose origin is not precisely determined. This is the understanding in terms of *maleficium*. In the second period, sorcerers were considered Devil worshipers who form an organized sect, make a contract with the Devil, and meet in secret meetings. At the time sorcerers also have had a terrible power to do all kinds of horrible harm to people. This second period is actually the period of mass persecution of witches.³

Most statutes contain provisions for punishing sorcerers, but not for what constitutes the crime of sorcery. According to the Korčula and Dubrovnik statutes, sorcery refers to acts that can cause people to lose their mind or a part of their body.⁴ When talking about *maleficium*, the Devil is not mentioned at all. Sorcery power is not considered to be of demonic origin. The term of poisoning was not clearly separated from the term of sorcery, but these two terms are not the same.

According to the statutes, sorcery was generally attributed to women. However, there is a difference in the statutes written in Croatian and Latin. In the statutes written in the Croatian language, it is stated that sorcery is practiced by women, and only one

³ *Ibid.*, p. 216.

⁴ *Ibid.*, p. 219.

provision states that men can also be punished. In the Latin written statutes, they clearly say that this crime can be committed by both men and women.⁵

We have almost no information about specific trials against sorcerers that were conducted in Dalmatia and the coastal area in the first period of prosecution of sorcery. The only known cases of sorcery of that period are the preserved opinion of an expert from Dubrovnik and the confession given by Diletta in Motovun.

4. Case against sorceress – Dubrovnik, 1556-1558

This is the case against a city prostitute who was accused of sorcery. Allegedly, she made a young nobleman to be deaf. The court of Dubrovnik was not clear if this was even possible. In this case, the expert opinion of Amatus Lusitanus played a key role. In his opinion, the young nobleman did not become deaf because of some mysterious powers, but because he got ill with syphilis.⁶ The court did not ask for the opinion of lawyers or theologians, and this reflects the advanced attitude of the court.

5. Case against Diletta – Motovun document, 1271

Motovun document dates back from 6th July 1271. It is part of notarial materials, a diplomatic source drafted by notary Bonaventura. It is kept at the Venetian State Archives.⁷ The document was written on an impermeable parchment, and it is very well preserved. Writing without errors and very neatly suggests that the notary had great chancery skill and technique.⁸

The document contains statements of Diletta Michiel, wife of Motovun Podestate Lord Thoma Michiel. She confessed to a series of acts qualified as sorcery.

⁵ *Ibid.*, p. 221.

⁶ *Ibid.*, pp. 223–224.

⁷ MILOTIĆ, Dunja – MILOTIĆ, Ivan: *Case against Diletta – On the Intersection between Roman, Canon, Customary, and Venetian Law*, State Archives in Pazin, Pazin–Motovun, 2022, p. 7.

⁸ *Ibid.*, pp. 8–9.

She mixed a lodestone with a little black dye, body of the Christ with the Chrism, her daughter's and firstborn son's umbilical cord, her and her mother's milk and her son's placenta into the food she gave to her husband and brother-in-law; made wood-ash lye, poured her menstrual blood in it and used it to wash the head of her husband; in front of the door to the room where she resided, she had placed scissors tied with a thread; had two wax figures pierced with needles from all sides and that she had placed them under the grass and they were wrapped in a pair of undergarments; had pig's leg bone that she had burned in a fire when a quarrel arose at home, in order to resolve it; had powder of a worm to cast on a man or person and make both of the brothers hate him.⁹

6. Diletta Michiel

Diletta Michiel was Venetian citizen, married to Thoma Michiel, Podestate of Motovun. Diletta's family is mostly unknown, it was probably the family Dandolo. Her sister Maria was married to Diletta's brother-in-law, Marco. Michiel family is wealthy, famous, and reputable. Brothers Thoma and Marco lived on joint assets for long time, until they divided everything on 2nd March 1271.¹⁰

On the same day Diletta made her last will and testament. She appointed her husband and brother-in-law as executors of her estate and bequeathed a part of her estate to her unborn child since she was pregnant with her third child. Her firstborn son and daughter died.¹¹ Before she went to Motovun, Diletta gave birth to a boy in Venice.

A few months later, on 6th July 1271 Diletta came to Motovun where her husband was appointed as the Podestate. On the same day, Diletta made her confession in front of the notary Bonaventura and other witnesses. The Motovun

⁹ *Ibid.*, pp. 27–28.

¹⁰ *Ibid.*, p. 98.

¹¹ *Ibid.*, p. 37.

document does not provide any explanation of the circumstances, reasons, or motivation for drafting this document.¹²

7. Circumstances of Diletta's confession

Usually, confessions were not made in a form of notarial document which arises suspicion on the whole proceeding. There is possibility that her confession has been forced and there are several facts that support that opinion.

First of all, the confession was made in a legally reliable way, but outside any proceeding. At the time, accusation of sorcery demanded an investigation and identification of the sorcerer. Also, there is nothing that seems like Diletta tried to defend herself or hide. She basically accused herself since there wasn't any on-going proceeding against her.¹³ In the most cases confession is statement that comes at the end of proceeding. In this case it came before any procedural step, investigation, or accusation. A detailed description of acts, such as one in the Motovun document, is also something not very usual for an average person when making a confession.

The location where Diletta made her confession is one more reason to support opinion about her being forced to make her statement. At the time, the Podestate had jurisdiction to prosecute sorcerers. Most of the proceeding stages, including confession, would take place in a municipal chancery. This confession was made in Diletta's home in Motovun, i.e., in a home of Motovun Podestate Thoma Michiel, and not in a municipal chancery or administration offices. This could be explained as the Podestate's desire to make this process easier for his wife, yet not convincing enough. The notary, Bonaventura, at the beginning of the document stated that it is being drafted at the request of Thoma Michiel, in his home.

¹² *Ibid.*, p. 38.

¹³ *Ibid.*, p. 74.

The last is the list of witnesses. First witness is her husband, the Podestate. Other witnesses, known by name and place where they lived, were family related to Thoma Michiel and none of them was from Motovun.¹⁴ Some other witnesses are also mentioned in the document. Those witnesses aren't named, so we don't know much about them, not even if they really existed. They were probably mentioned only to contribute to the credibility of the content of the document. There is a question if any of them really were present during the time that confession and document were drafted. If they were, it would mean that all of them came to Motovun only to witness the confession and that confirms that everything was planned in advanced.

One more thing that should be considered in this case is position of the notary Bonaventura. In 1271 Patriarch of Aquileia lost his authority in Motovun and Venetians took it over. Bonaventura held the office of *notarius sacri palatii*, but Venetians didn't want an office like that. Bonaventura's position, his job, depended merely on Thoma Michiel. If he wanted to keep his position and to prove his loyalty to the new authority, he would draft the document according to the Podestate's wishes which may not have been in accordance with the notarial practice.¹⁵

8. Diletta's confession – evidence in the proceeding, consequences of the confession

The Motovun document is a confession clothed in a notarial document. Confession before the chancellor in a notarial form and in the presence of impeccable witnesses represents qualified, undisputable, and *a priori* evidence of guilt of person who confessed.¹⁶ The document provided many details as she confessed series of typical and ideal-type acts of sorcery, without formal charges. The confession created full

¹⁴ *Ibid.*, p. 75.

¹⁵ *Ibid.*, p. 76.

¹⁶ *Ibid.*, p. 73.

certainty of guilt in the person who led the proceedings. Also, the confession is prerequisite for a conviction, the strongest and most convincing proof.¹⁷

This case has many extraordinary circumstances. Diletta's confession was made far from public eye, in her husband's home, before her husband who was an authorized investigator and prosecutor of those crimes according to his office of the Podestate; before the chancellor whose professional life depended in everything on the person of the Venetian Podestate and before the witnesses – none from Motovun, but all reputable and noble people connected to Diletta's husband. This all leads to conclusion that Diletta's confession has been coerced or that Diletta never actually made those statements and that no witnesses were present.¹⁸

9. Diletta's punishment

The punishment for a crime of sorcery is death, burning at pyre. The same happened to Diletta, yet it is not sure if she has been burnt at stake or hung. Diletta was executed in August 1271, most likely near the Church of St Cyprian. The exact date of her death is not known but it is probably after 8th August 1271 since the news of her death came very soon to Venice. Also, the method that was used in her execution is also uncertain. The Church of St Cyprian was very small and there were buildings around it with a small square. If the executors tried to put a pyre and open flame there, the fire would have inflamed other buildings too. That's why Diletta was most likely hanged in front of the Church.

It is important to mention that the Church itself didn't have any influence in this execution since there is no mention of any theological authority, only civil one. Authorities of the Church could not involve in any judicial or civil matters since they were fully separated from Venetian authorities.¹⁹

¹⁷ *Ibid.*, p. 82.

¹⁸ *Ibid.*, pp. 93–94.

¹⁹ *Ibid.*, pp. 103–105.

Nevertheless, the great role in this proceeding and her punishment as well has had Diletta's husband, Thoma Michiel. He was the organizer of the confession. On his request notary Bonaventura composed the document. Diletta couldn't organize confession since she has never been in Motovun before neither she could have organized everything immediately upon her arrival to Motovun. Thoma is also person who made the decision for Diletta to be executed for acts of sorcery in or after proceedings after the drafting of the document.

Immediately after Diletta's death, Thoma has been accused of murder of his wife, *uxoricidium*, but the accusations were dismissed soon afterwards.²⁰ Possible reason for his planning murder of his wife and organization of drafting the document is Diletta's last will and testament. She has had substantial financial and non-financial assets. Her death was only way for Thoma to acquire those assets from Diletta since last will and testament is a legal transaction whose effects come after the testator's death. On 14th August 1271 Thoma instructed his brother to submit Diletta's last will and testament to the authorities so that Thoma could get Diletta's part of estate.²¹

Still, that is only a possibility since we don't have any source that says differently. It is also questionable if that could be the real reason. It is known that Thoma Michiel was a wealthy noble and so, he didn't need Diletta's assets. So, it's possible that he had another reason for setting up this entire proceeding against his wife, an intimate reason known only to himself.

10. Conclusion

Sorcerers were prosecuted in Croatia for more than five hundred years. The prosecution obviously changed as time passed by, but it also depended on some other factors. Case against Diletta is an early case of prosecution of a sorceress dating back to the 13th century. I find this case very interesting since it isn't some typical case where

²⁰ *Ibid.*, p. 101.

²¹ *Ibid.*, p. 99.

everything is very clear. There are a lot of questionable facts that make everything more interesting, from historical and legal aspect. In this case we see how the one with the greatest power can decide the life and fate of others. However, there are a few more questions left such as what the real reason for this staged confession was, did Diletta really confessed everything by herself, what was the real reason for drafting the Motovun document, etc. Answers to these questions can't be provided until more historical sources are found, and more legal research is done.