

1948  
 May 12  
 REX  
 v.  
 PANAYIS  
 DEMETRI.

IN THE ASSIZE COURT OF FAMAGUSTA.  
 [MELISSAS, J., COX, P.D.C., AND ZENON, D.J.]  
 (May 12, 1948)

REX

v.

PANAYIS DEMETRI

*Criminal Law—Murder—Act and intent—Drunkness—Cyprus  
 Criminal Code, section 14.*

The accused killed the deceased with a shot from his sporting gun. The defence was, *inter alia*, that the accused was so drunk that he did not know what he was doing. The accused was considerably intoxicated at the material time, and his act was unprovoked, motiveless and, on account of his drunkenness, impulsive. The extent of accused's intoxication was such as to affect his faculties, particularly his self-control and the appreciation of danger from his acts, but it was not such as to render him unconscious of his acts.

*Held*: (i) that the defence of drunkenness was in Cyprus law no defence at all, for section 14 of the Cyprus Criminal Code provides that a person who does an act while in a state of intoxication is deemed to have intended the natural and probable consequences of his act, the effect of which is to place a drunken man in the position of a sober man as to criminal responsibility, and

(ii) consequently, the express provisions of Cyprus law on the criminal responsibility of drunken persons were different to those of English law.

Accused found guilty of murder.

TRIAL AT FAMAGUSTA ASSIZES.

*P. N. Paschalis*, Crown Counsel, for the Crown.

*Fuad Bey* and *Stavrakis*, for the accused.

The facts of this case are set forth in the judgment of the Court which was delivered by:

MELISSAS, J.: In every trial of a charge for murder two questions arise for determination by the Court: the act and the intent. In the present case the act, namely, the killing of the deceased by the accused with a shot from his sporting gun, is an established fact and there remains for our determination the intent with which the accused shot at deceased with such fatal results.

The use by a sane person of so deadly a weapon as a firearm implies an intent to kill or to cause grievous bodily harm which constitutes the offence of murder. But it is said by the defence that the shooting was accidental and that accused was so drunk that he did not know what he was doing. The evidence of eye-witnesses and accused's conduct and expressions at the time of firing preclude

accident and prove that accused's act was deliberate: so would we have described it in the case of a sober man. The defence of accident therefore fails. The defence of drunkenness is in our law, unlike English law, no defence at all, for section 14 of our Criminal Code provides that a person who does an act in a state of intoxication is deemed to have intended the natural and probable consequences of his act, the effect of which is to place a drunken man in the position of a sober man as to criminal responsibility. In fairness, however, to the accused, we consider it right to record our findings of fact in regard to this defence. That accused was considerably intoxicated at the material time is also an established fact. All witnesses agree on it and accused's conduct and expressions sufficiently betray it. And we note that accused's act was unprovoked, motiveless and, on account of his drunkenness, impulsive. Although medical evidence is unfortunately lacking as to the extent of accused's intoxication we have no doubt that it was such as to affect his faculties, particularly his self-control and the appreciation of danger from his acts, but it was not such as to render him unconscious of his acts. The express provisions of our law on the criminal responsibility of drunken persons being as we have explained, and different to those of English law, it is not in our discretion to temper them. And we have no alternative but to return a verdict of murder.

*Accused found guilty of murder.*

*Note.*—The above Assize Court judgment was not appealed from and is reported as clarifying the law in relation to the defence of drunkenness.

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