

[JACKSON, C.J., GRIFFITH WILLIAMS AND MELISSAS, JJ.]
(November 12, 1948)

1948
Nov. 12
Re MINOS
PERDIOS.

Re MINOS PERDIOS, Respondent.
(Civil Application No. 9/48.)

Contempt of Court—Pending proceedings—Report of proceedings in newspaper—Prejudice to trial—Cyprus Courts of Justice Order, 1927, clause 221.

The respondent published in his newspaper a report of proceedings on the previous day in the Magistrate's Court in which a preliminary inquiry was being conducted. A man who had not been called as a witness had attempted to interrupt the proceedings and had stated publicly in the Court that it was he who had committed the assault which was the subject of the charge and that the accused man was innocent. The respondent's newspaper suggested in the most obvious manner that the purported confession was true and that the prosecution had put the wrong man on trial. It described the proceedings, in a boldly printed headline, as "A Big Judicial Scandal", referring to them a second time, again in large letters, as "an unprecedented judicial scandal."

Held: (i) that the publication of material which clearly implied that an accused person was innocent and that the principal witness for the prosecution had given false evidence was calculated to prejudice the fair trial of the proceedings.

(ii) by the publication of this report the respondent's newspaper attempted to usurp the functions of the Court itself, and it would be the gravest injury to the public interest if countenance were given to the conduct of trials by newspapers simultaneously with, or in anticipation of, the conduct of trials by the properly constituted courts. It is clear that, by twice describing the proceedings as a judicial scandal, the article used language which was calculated to bring the Magistrate's Court into contempt.

(iii) the object of proceedings under clause 221 of the Cyprus Courts of Justice Order, 1927, is not to protect the courts or the individual Judges who sit in them but to protect the public, whose interest requires that their confidence should not be improperly diminished in the tribunals to which they are obliged to resort.

Proceedings for writ of attachment.

The Supreme Court, of its own motion, called upon the respondent to show cause why he should not be punished for contempt of Court.

J. Clerides for the respondent.

The Solicitor-General (*C. Tornaritis*), appeared as *amicus curiae* to assist the Court if required.

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The judgment of the Court was delivered by the Chief Justice :

JACKSON, C.J. : The respondent in these proceedings is the editor of the newspaper "Democratis", published in Nicosia. He is also the responsible manager of the company which owns and publishes that newspaper.

On the 15th October he published a report of proceedings on the previous day in the Magistrate's Court, Nicosia, in which a preliminary enquiry was being conducted into two charges arising out of an assault alleged to have been committed by a man named Theoklis Demetri upon a man named Sotirakis Joannides. The charges were serious, the first being for attempted murder and the second for assault with intent to cause grievous bodily harm. The suggestion of the prosecution was that the accused man and the man attacked belong to different groups holding opposing views on the subject of a strike of building operatives which was in progress at the time of the assault and still continues. On the 15th October, the day of the publication of the article with which we are concerned, the accused man was committed for trial by the Assize Court on the two charges that we have mentioned and his trial is still pending.

The newspaper reported in detail a particular incident which had occurred in the Magistrate's Court on the previous day. A man who had not been called as a witness, either by the prosecution or by the defence, had then attempted to interrupt the proceedings and had stated publicly in the Court that it was he who had committed the assault which was the subject of the charge and that the accused man was innocent. The Magistrate, quite rightly, refused to allow the proceedings to be interrupted in that way and the man later made a statement to the police. On the following day, as we have already stated, the accused man was committed for trial.

The incident which had occurred in the Magistrate's Court was, of course, reported by a number of other newspapers as well as by the respondent's newspaper, "Democratis", and we have examined a number of those reports. There is an essential difference between them and the report published by the respondent. The other newspapers reported the purported confession without comment. They were careful to refrain from any suggestion that it was either true or false. The respondent's newspaper, on the other hand, suggested in the most obvious manner that the purported confession was true and that the prosecution had put the wrong man on trial. It described

the proceedings, in a boldly printed headline, as "A Big Judicial Scandal", referring to them a second time, again in large letters, as "an unprecedented judicial scandal." The report described the demeanour of the man making his purported confession, the obvious suggestion being that he deserved to be believed. The reactions of the public, on hearing the purported confession, and the remarks of some of them, were also reported, the equally obvious suggestion being that they believed what the man had said and that the principal witness for the prosecution, who had already given evidence, had testified falsely.

Thus the respondent's newspaper attempted to usurp the functions of the Court itself; the function, in the first place, of the Magistrate's Court to determine whether there was or was not sufficient evidence to justify the committal of the accused man for trial, and the later function of the Assize Court to determine whether he is guilty or not. That is by far the gravest aspect of the respondent's conduct in publishing the article which is the subject of these proceedings, for, as has often been remarked in proceedings of this kind, it would be the gravest injury to the public interest if countenance were given to the conduct of trials by newspapers simultaneously with, or in anticipation of, the conduct of trials by the properly constituted courts. It is clear, also, that by twice describing the proceedings as a *judicial scandal*, the article used language which was calculated to bring the Magistrate's Court into contempt.

The object of proceedings like those with which we are now concerned is not to protect the courts or the individual Judges who sit in them but to protect the public, whose interest requires that their confidence should not be improperly diminished in the tribunals to which they are obliged to resort.

It is true that we have no juries in Cyprus and that one of the dangers of improper comment on pending trials does not, consequently, exist here. But an attempt by a newspaper to predetermine an issue before the courts may arouse strong public prejudice on one side or the other and may powerfully affect parties and witnesses, as well as the public confidence in the courts, and so may gravely interfere with the due administration of justice.

We have given full weight to the affidavit which has been filed by the respondent apologizing for the publication, denying any intention to bring the Court into contempt and solemnly promising to be more careful in future. But for that apology we would have felt obliged to take more severe action than we propose to take now.

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But it is clear from the respondent's apology, as well as from what his counsel said about it in this Court, that the respondent does not yet appreciate what we consider to be by far the most serious aspect of his conduct, namely, the publication of material which clearly implied that an accused person was innocent and that the principal witness for the prosecution had given false evidence. That material was very clearly calculated to prejudice the fair trial of the proceedings.

The Courts of Justice Order imposes upon this Court the duty of protecting all the tribunals in the Island from those grave abuses and, in the public interest, we must discharge it.

We have come to the conclusion that the lowest penalty that we can reasonably impose is a fine of £100.

The respondent must also pay the costs of these proceedings.

He must remain in the custody of the Court, or, if necessary, in the Central Prison, until the fine is paid.

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[JACKSON, C.J., AND MELISSAS, J.]
(November 22 and 23, 1948)

NICOLAS CHARALAMBOUS IOANNIDES

AND OTHERS, *Appellants,*

v.

THE POLICE, *Respondents.*

(*Case Stated No. 45.*)

Gambling—Keeping a Gaming House—Betting Houses, Gaming Houses, Lotteries and Gambling Prevention Law, 1947, sections 3 (1) (a) and 5—“Rami” a game of mixed skill and chance. Evidence—Judicial notice—Notorious facts.

The first appellant was convicted of keeping a gaming house and the other appellants of gambling, viz. playing “Rami”, in a gaming house, under sections 3 (1) (a) and 5 of the Betting Houses, Lotteries and Gambling Prevention Law, 1947. The trial Judge was of the opinion that the game of “Rami” is so well and so widely known in Cyprus that its character fell into that class of notorious facts of which a Court is entitled to take judicial notice. The point of law raised by the appellants was the question whether or not the trial Judge was entitled to find, as he did, and without evidence, that the game of “Rami” was a game of mixed skill and chance.