

1961
Nov. 9

RASHID RIFAT
SOULEYMAN
AND ANOTHER
v.
THE POLICE

[O' BRIAIN, P., ZEKIA, VASSILIADES and JOSEPHIDES, JJ.]

RASHID RIFAT SOULEYMAN AND ANOTHER,

Appellants,

v.

THE POLICE,

Respondents.

*(Criminal Appeals Nos. 2403 and 2404
(Consolidated).*

*Evidence in criminal cases—Larceny—Stolen articles not produced
in Court—Identity not satisfactorily established.*

In a case of theft the stolen articles were not produced before the Court as exhibits to establish their identity. There were no eye-witnesses and the case turned on the identification of the articles which were not produced.

Held: In the absence of these exhibits which were of vital importance for establishing the identity of the articles in question, the matter of identity was not clearly and satisfactorily established.

*Appeal allowed. Conviction and
sentence quashed.*

**Appeal against conviction and sentence by appellant No. 1 and
appeal against conviction by appellant No. 2.**

The appellants were convicted on the 18.8.61 at the District Court of Nicosia (Criminal Case No. 9969/61) on one count of the offence of stealing, contrary to sections 262 and 20 of the Criminal Code Cap. 154 and were sentenced by Dervish, P.D.C., to 12 months' imprisonment.

Kiamran Halil for the appellant

E. Munir for the respondent.

The judgment of the Court was delivered by:

ZEKIA, J.: The Court has carefully considered the submissions put forward by your able counsel. You have been found guilty for the larceny of a tin containing local cheese (halloumi). The theft is not disputed; the only issue was whether you were the person or persons who stole the articles in question. There were no eye-witnesses in the case and virtually the whole case turned on the identification of these

articles which were not produced before the trial Court and were, therefore, not made available for this Court either.

In the absence of these exhibits which are of vital importance for establishing the identity of the articles in question this Court is of the opinion that the matter of identity was not clearly and satisfactorily established before the trial Court.

In the circumstances of the case we have to adopt one of the two courses : (a) To allow the appeal and quash the conviction and sentence, or (b) to remit the case for trial by another Bench. Taking into consideration that you have already served three months' imprisonment and also the possibility that the exhibits involved, if traced, cannot be produced in their original condition we have decided to adopt the first course and acquit you of the charge.

Conviction and sentence, therefore, quashed.

Appeal allowed. Conviction and sentence quashed.

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