

KYRIAKOS VASSILIOU,

Appellant,

v.

THE POLICE,

Respondents.

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KYRIAKOS
VASSILIOU
v.
THE POLICE

(*Criminal Appeal No. 2732*)

*Criminal Procedure Law—Remand Order under section 24
of the Criminal Procedure Law, Cap. 155—Appeal from—
Sufficient material to make a remand order necessary.*

Appeal.

Appeal against a remand order made on the 8th August, 1964, under the provisions of section 24 of the Criminal Procedure Law, Cap. 155, by the District Court of Nicosia (Ilkay D.J.) whereby the appellant was remanded in police custody for eight days pending the completion of the investigations into an alleged offence of murder.

L. N. Clerides, for the appellant.

A. Frangos, Counsel of the Republic, for the respondents.

The facts sufficiently appear in the judgment delivered by :

VASSILIADES, J. : This is an appeal against a remand order made under the provisions of s. 24 of the Criminal Procedure Law, (Cap. 155) by a District Judge of Nicosia.

The appeal is based on grounds which may be put in two groups. The first containing objections going to the legality of the proceedings ; the second containing matter going to the substance of the case. In this latter respect it is contended on behalf of the appellant that the grounds upon which the remand order was made, as they appear on the record, cannot constitute sufficient justification for the making of the remand order.

The first group of grounds raises a number of points, some of them of grave importance, in respect of which the Court might find it necessary to take further evidence. And we take the view that if we went into this group first, the hearing of this appeal and the making of a decision therein, might take such time as it would practically frustrate the very object of the appeal. We, therefore, thought

that we should go into the substance first, and then deal with the legal objections raised, if necessary. After all, in an application for a remand order, the first question to be considered by the Judge is whether, balancing public interest in the detection of crime as presented to him at the time, against a person's legal right to his liberty, the Judge finds sufficient justification for the making of a remand order.

We went carefully into the question whether on the material on record, there is sufficient cause to justify the exercise of the judicial power provided by section 24, which purports to have been exercised by the learned Judge in the case in hand. We are unanimously of opinion that there was no such justification.

The more we went into this question, the clearer it became that the circumstances in which the remand was sought, should make the Judge who was asked to exercise such powers, go much deeper into the case. A person who had been in custody under several remand orders—most of them made by the same Judge—with the charge that he was in possession of six rounds of ammunition, was now brought before the Judge on an application for a second remand, (the first having been granted on the 31st July) on the allegation that he was being kept in connection with the investigations for a murder committed "in Kyrenia in or about April, 1964". No particulars appear on the record before us regarding this new crime; what information the police had in hand connecting the appellant with the alleged murder; no explanation why this matter had not been raised earlier; whether the person before the Judge required the services of an advocate; and so on and so forth.

There is, however, a gap in the record before us as to what happened on the application for the remand granted on the 31st of July. It may well be that on his refusal to make a further remand for the 6 rounds of ammunition, the Judge was persuaded to make one for an alleged murder. If that is the case, it would give rise to very serious matters indeed. And we prefer, at this stage, to leave it at that.

In the circumstances we are of opinion that the remand order should be set aside forthwith. And that in case of further application for a remand order in connection with the same man or the same alleged murder, the matter should be taken before another Judge. It would hardly

be fair for the person concerned or for the Judge himself to have to deal again with this matter now.

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Having reached this conclusion on the substance, we found it unnecessary to go into the other matters, interesting and important as they may be, in this particular case. They may probably arise in the other similar appeals on to-day's list.

I need hardly add that counsel for the Republic, quite properly, in our opinion, did not oppose this appeal.

I do not know whether my brother Judges wish to add anything to this oral judgment.

TRIANTAFYLIDIS J. : I concur.

JOSEPHIDES, J. : I also concur.

Appeal allowed.

VASSILIADES, J. : Now there are before us three more appeals against remand orders. These will be heard on Tuesday at 9.30 a.m. We take the view that the appellants should be here in the hearing of these appeals ; and that the police should take all possible steps to have the appellants before the Court on Tuesday morning. Very strong reasons indeed will be required to justify their absence. And this may go to the very root of such orders. If the law requires their presence before the Judge, they should, normally, be in Court at the hearing of an appeal against the Judge's decision.