

ALEXANDROS STYLIANOU PILLAKOURIS,

Appellant,

v.

THE POLICE,

Respondents.

ALEXANDROS
STYLIANOU
PILLAKOURIS
v.
THE POLICE

(Criminal Appeal No. 2750)

Criminal Law—Stealing—Criminal Code, Cap. 154, sections 255 (1) and 262—Appeal against conviction and sentence—Ample evidence to justify conviction.

Criminal Procedure—Allegations of irregularities during trial—Use made of exhibits kept in the custody of the police, although undesirable, in the circumstances of this case did not amount to tampering with exhibits and did not prejudice the defence.

Evidence in criminal cases—Contemporaneous report prepared by police officer—Refreshing memory while giving evidence.

The appellant was convicted of the offence of stealing 18 logs of timber contrary to ss. 255 (1) and 262 of the Criminal Code, Cap. 154, and was sentenced to six months' imprisonment.

He appealed against conviction mainly on two grounds :

- (1) that there was no evidence sufficient to justify a conviction ; and
- (2) that there was some irregularity at the trial in that the exhibits were wrongly put in as they were not kept in proper custody by the police.

Counsel for the appellant referred further to another irregularity namely that the Police Constable while giving evidence made use of the report he prepared at the time of the offence.

Held, (I) on ground (1) :

Even if we do not make use of the phrase "overwhelming" evidence, to which the Counsel for the appellant objected so much there was "ample" evidence to convict the appellant-accused for the theft of 18 logs of timber on the day appearing on the charge sheet.

(II) on ground (2) :

(1) As to the irregularities alleged we think that there is no substance in what has been said. In the first place, the

1965

Jan. 14

ALEXANDROS
STYLIANOU
PILLAKOURIS
v.
THE POLICE

exhibits, the logs of timber, were kept in the custody of the police, and although it is not desirable to make use of them in the circumstances, the use made of them did not amount to tampering with exhibits and did not in any way prejudice the case of defence. Complainant and the timber merchant identified them in the shop and also in the court-yard on the day of the trial. The fact that the chalk mark was missing on some of the logs in question did not prevent witnesses from identifying the logs because the logs had other distinctive marks on them. Moreover, the trial Judge believed the witnesses who identified the stolen logs. It is not always possible to keep under lock in a room bulky articles when they are produced as exhibits. The same applies to living animals when they are the subject-matter of a charge. They cannot be kept indoors all the time. They have to be taken out for grazing and brought back on the date of trial.

(2) The second irregularity which was referred to was the use the police constable made of the report (which he prepared at the time) while giving evidence ; we think there was nothing improper for the police constable in refreshing his memory while giving evidence by making use of his report which he kept.

Appeal dismissed.

Appeal against conviction.

Appeal against conviction by the appellant who was convicted on the 12th December, 1964, at the District Court of Nicosia, sitting at Morphou, (Criminal Case No. 1610/64) on one count of the offence of stealing, contrary to sections 255 (1) and 262 of the Criminal Code, Cap. 154, and was sentenced by Papaioannou D.J., to 6 months' imprisonment.

A. Pantelides, for the appellant.

K. C. Talarides, counsel of the Republic, for the respondents.

The judgment of the Court was delivered by :

ZEKIA, P.: In this case the prisoner was charged and convicted of stealing between 29th and 30th April, 1964, 21 pieces of wood the property of the complainant. The grounds of appeal turn on two points—(1) that there was no adequate evidence to convict the prisoner ; (2) that

there was some irregularity at the trial. We have gone into the record and read the evidence and also followed carefully the submissions made by the counsel of the prisoner. Even if we do not make use of the phrase "overwhelming" evidence to which the counsel objected so much, there was "ample" evidence to convict him for the theft of 18 logs of timber on the day appearing on the charge sheet.

1965
Jan. 14
—
ALEXANDROS
STYLIANOU
PILLAKOURIS
v.
THE POLICE

As to the irregularities alleged we think that there is no substance in what has been said. In the first place, the exhibits, the logs of timber, were kept in the custody of the police, and although it is not desirable to make use of them in the circumstances, the use made of them did not amount to tampering with exhibits and did not in any way prejudice the case of defence. Complainant and the timber merchant identified them in the shop and also in the court yard on the day of the trial. The fact that the chalk mark was missing on some of the logs in question did not prevent witnesses from identifying the logs because the logs had other distinctive marks on them. Moreover the trial Judge believed the witnesses who identified the stolen logs. It is not always possible to keep under lock in a room bulky articles when they are produced as exhibits. The same applies to living animals when they are the subject matter of a charge. They cannot be kept indoors all the time. They have to be taken out for grazing and brought back on the date of trial.

The second irregularity which was referred to was the use the police constable made of the report (which he prepared at the time) while giving evidence; we think there was nothing improper for the police constable in refreshing his memory while giving evidence by making use of his report which he kept.

The appeal is, therefore, dismissed.

The sentence will run from the date of conviction.

*Appeal dismissed. Sentence
to run as aforesaid.*