

1967
April 13

[VASSILIADES, P JOSEPHIDES AND HADJIANASTASSIOU, JJ]

PAPAFINGOS
TRANSPORT
CO LTD,
v
THE DISTRICT
LABOUR
OFFICER,
LIMASSOL

PAPAFINGOS TRANSPORT CO LTD

Appellant.

THE DISTRICT LABOUR OFFICER, LIMASSOL

Respondent

(Criminal Appeal No 2896)

Criminal Law—Conviction—Appeal against conviction Employing unregistered port workers contrary to regulations 5 (2) (a) and 16 (a) of the Port Workers (Regulation of Employment) Regulations 1952 and the Port Workers (Limassol, Famagusta and Larnaca) (Regulation of Employment) Order 1953. Finding of trial Court that workers were employed within the Limassol port—Upheld by Court of Appeal as being open to it on the evidence. Definition of port.

Port Workers Employing unregistered workers see under Criminal Law above.

Appeal against conviction.

Appeal against conviction by appellant who was convicted on the 28.2.67 at the District Court of Limassol (Criminal Case No 402/67) on 4 counts of the offence of employing at Limassol port unregistered port workers contrary to regulations 5 (2) (a) and 16 (a) of the Port Workers (Regulation of Employment) Regulations, 1952, made under Cap 184, and the Port Workers (Limassol, Famagusta and Larnaca) (Regulation of Employment) Order, 1953, and was sentenced by Pikiis Ag DJ, to pay a fine of £5.

R Michaelides with Pr Kolotas, for the appellants

S Georghades, Counsel of the Republic, for the respondent

The facts sufficiently appear in the judgment of the Court.

VASSILIADES, P The judgment of the Court will be delivered by Josephides, J.

JOSEPHIDES, J In this case the appellant was convicted of the offence of employing at Limassol port unregistered port workers contrary to regulations 5 (2) (a) and 16 (a) of

the Port Workers (Regulation of Employment) Regulations 1952, made under Cap. 184, and the Port Workers (Limassol, Famagusta and Larnaca) (Regulation of Employment) Order, 1953, and he was sentenced to pay a fine of £5. The appeal is against conviction only.

It was conceded by the appellant that the persons employed on his lorry on that day were not registered port workers within the meaning of the definition in section 2 of the Port Workers (Regulation of Employment) Law, Cap. 184 and regulation 2 of the aforesaid Regulations of 1952.

The only question which remains to be considered is whether he employed those workers within the Limassol port. Mr. Michaelides for the appellant, in his able argument, raised a number of interesting points but I do not think that it is necessary for the purposes of this case to decide them, except this short point: that is, whether the finding of the trial Judge that the workers were employed within the Limassol port was open to him on the evidence.

In submitting that the lorry was not within the port area Mr. Michaelides mainly relied on the evidence of the prosecution witness Charalambos Hadji Neophytou, a Customs Guard. He said (at page 5G of the record) that "Customs porters were handling the goods from the store to the car of accused. The area where the car of accused was stationed was a Customs area and not a port area. In a Customs area Customs porters are employed. Port workers are employed at the port area"; and in answer to the Court this witness said, "I do not know whether there is any separation of the Customs area from the Port area."

Port is defined in section 2 of Cap. 184 as "any place appointed by the Governor in Council (now the Council of Ministers) to be a port under the Customs Management Law, Cap. 315." Section 2 of Cap. 315 defines port "as a place appointed to be a port by the Governor in Council" (now the Council of Ministers); and the geographical limits of the Limassol port are defined in Part I of the Schedule to the Order in Council No. 2725 published on the 26th December, 1954, in the *Cyprus Gazette*, Supplement No. 3, page 664. The proviso to regulation 3 of that Order reads as follows:

"Provided that the limits of each port shall be deemed to include any Customs store and Customs warehouse in use by the Customs at each port respectively, and any other area under Customs control thereat."

1967
April 13
—
PAPAFINGOS
TRANSPORT
CO. LTD.,
v.
THE DISTRICT
LABOUR
OFFICER,
LIMASSOL

1967
April 13

PAPAFINGOS
TRANSPORT
CO. LTD.,
v.
THE DISTRICT
LABOUR
OFFICER,
LIMASSOL

The argument on behalf of the appellant was that the lorry was in the Customs area but not in the port area. It was not his case that the lorry was altogether outside the Customs and port areas. We think that the proviso to regulation 3 quoted above is a complete answer to that argument. Here according to the evidence of the Customs guard, the appellant's lorry was stationed within the Limassol Customs area and on the strength of that proviso the limits of Limassol port are deemed to include any area under Customs control.

For these reasons we are of the view that the trial Judge rightly convicted the appellant and the appeal is accordingly dismissed.

Appeal dismissed.