

IOANNIS S. MALEKIDES,

Appellant.

v.

THE POLICE,

Respondents.

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IOANNIS S.
MALEKIDES
v.
THE POLICE

(*Criminal Appeal No. 2941*)

Criminal Law—Dentists—Practice of dentistry by unregistered persons—The Dentists Registration Law, Cap. 249 (as amended by the Dentists Registration (Amendment) Law, 1962, Law No. 76/62) sections 4 (3) (4) (5), 18 and 21—Conviction—Circumstances of the offence—Dental work in the mouth of a patient who was himself a dentist by a person who had already applied for an assistant dentist's licence and was granted such licence after the offence—Offence only a technical one—Unconditional discharge of appellant.

Dentists—Dentistry—Practising—Assistant Dentists—See above.

Discharge—Unconditional discharge as the offence was only a technical one—See above under Criminal Law.

The facts sufficiently appear in the judgment of the Court allowing the appeal and unconditionally discharging the appellant.

Appeal against conviction.

Appeal against conviction by appellant who was convicted on the 30th June, 1967, at the District Court of Nicosia (Criminal Case No. 28742/66) on one count of the offence of practising in dentistry without being a duly qualified medical practitioner, contrary to sections 4, 18 and 21 (1)(b)(3) of the Dentists Registration Law, Cap. 249, as amended by Law 76/62 and was bound over by Stylianides, D.J., in the sum of £50, for one year and he was further ordered to pay £6 costs of prosecution.

L. Clerides, for the appellant.

L. Loucaides, Counsel of the Republic, for the respondents.

VASSILIADES, P.: The judgment of the Court will be delivered by Mr. Justice Triantafyllides.

TRIANTAFYLIDIS, J.: The appellant appeals against his conviction, on the 30th June, 1967, of the offence of practising dentistry on the 21st November, 1966, without being a duly qualified medical practitioner ; he was charged under sections 4, 18 and 21 of the Dentists Registration Law, (Cap. 249) as amended by the Dentists Registration (Amendment) Law, 1962, (Law 76/62).

It has been common ground that the appellant is not a person registered or entitled to be registered as a dentist under the provisions of Cap. 249.

What has been in issue is whether or not the appellant was, at the material time, an assistant dentist, in the sense of sub-section (3) of section 4 of Cap. 249 ; and, if he was, whether he was doing dental work which an assistant dentist is entitled to do under sub-section (5) of section 4.

The learned trial Judge found that the appellant was not, on the 21st November, 1966, an assistant dentist and as a result he did not proceed to decide the issue of the nature of the work which the appellant was found to be doing on that date.

At the very outset of the hearing of this appeal counsel for the respondent has invited us to hold, in agreement with the main ground of appeal in this case, that the appellant was indeed on the 21st November, 1966, an assistant dentist and that the relevant finding of the trial Court was erroneous. Counsel based this course on the submission that it was required by the proper construction of sub-section (3) of section 4 of Cap. 249 and of an assistant dentist's licence granted to the appellant by the Dental Council on the 13th April, 1967, and published in the official *Gazette* on the 20th April, 1967. (See Supplement No. 3, Notification 309).

Having heard counsel for the appellant, also, we found it unnecessary to decide whether to accept or not the submission made on behalf of the respondent, because we are of the opinion that even if the appellant were not an assistant dentist on the 21st November, 1966, the circumstances of this case are such that we should discharge him unconditionally.

We have reached this conclusion bearing in mind that the appellant, under the provisions of sub-section (4) of section 4 of Cap. 249, had applied for an assistant dentist's

licence nearly four years before the date of the offence, but, through no fault of his own, the granting of his licence did not materialise until April, 1967 ; that to be issued with such a licence in April, 1967, he must have been found by the Dental Council to satisfy the requirements laid down by section 4 (3) of the Law ; and that the work he was doing at the material time was being done in the mouth of a patient who was himself a dentist and must have authorized the appellant to act as he did.

It follows, therefore, that the offence committed by the appellant—on the assumption that he was not at the time an assistant dentist—was only a technical one and, as already stated, we have decided to discharge him unconditionally.

Appeal allowed. Appellant discharged unconditionally.

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