

PANAYIOTIS MOUZOURIS (NO. 1),

Appellant,

v.

PANAYIOTIS
MOUZOURIS
(NO. 1)

v.

THE REPUBLIC,

THE REPUBLIC

Respondent.

(*Criminal Appeal No. 3764*).

Criminal Procedure—Appeal—Recalling of witness—Section 25(3) of the Courts of Justice Law, 1960 (Law 14 of 1960)—Evidence sought to be introduced intended to substitute, in the place of the relevant powers of the trial Court and of Court of Appeal, regarding evaluation of evidence, the opinion of a witness at a trial—Such evidence entirely outside ambit of said section 25(3).

This was an application, under section 25(3) of the Courts of Justice Law, 1960 (Law 14 of 1960) for leave to recall a prosecution witness, at the trial of the appellant, to give further evidence before the Court of Appeal for the purposes of the appeal.

The further evidence was to the effect that what the appellant told this witness about placing at the house of the complainant the grenades in respect of which he was convicted, was in the opinion of the witness, a lie, because on many past occasions the appellant had bragged about doing things which he allegedly had done, but which in fact he did not do.

Held, dismissing the application, that this Court is asked to recall a prosecution witness in order to hear from him his own appreciation of the credibility of the appellant regarding matters which, as he has testified at the trial, were said to him by the appellant; that evidence of the nature sought to be introduced by means of the present application, and which is intended, in essence, to substitute in the place of the relevant powers of the trial Court and of this Court, regarding evaluation of evidence, the opinion of a witness at the trial, is entirely outside the ambit of section 25(3) of Law 14/60; and that accordingly, the application will be dismissed.

Application dismissed.

1977
May 24

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PANAYIOTIS
MOUZOURIS
(No. 1)

v.
THE REPUBLIC

Application.

Application for an order, under section 25(3) of the Courts of Justice Law, 1960 (Law 14/60) that one of the prosecution witnesses at the trial of the appellant, should be recalled to give further evidence before the Supreme Court.

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A. Pandelides with *A. Ladas* and *St. Kittis* for the appellant.
St. Tamassios, for the respondent.

The decision of the Court was delivered by:—

TRIANTAFYLIDIS, P.: At the commencement of the hearing of this appeal counsel for the appellant has invited us to deal with an application of his seeking an order, under section 25(3) of the Courts of Justice Law, 1960 (Law 14/60), that one of the prosecution witnesses at the trial of the appellant, namely Takis Constantinou (P.W. 6), should be recalled to give further evidence before us for the purposes of this appeal.

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The application is supported by an affidavit to which there is annexed a signed declaration by the said witness, made on January 23, 1977; the application was filed on January 29, 1977, and the affidavit was sworn on the same date. In his declaration the witness concerned states, in effect, that what the appellant told him about placing at the house of the complainant the grenades in respect of which he was convicted, was, in the opinion of the witness, a lie, because on many past occasions the appellant had bragged about doing things which he allegedly had done, but which in fact he did not do.

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Thus we are asked to recall a prosecution witness in order to hear from him his own appreciation of the credibility of the appellant regarding matters which, as he has testified at the trial, were said to him by the appellant; and, it is not, indeed, alleged, in the said signed declaration of this witness, that the appellant did not, in fact, say to him what such witness told the trial Court that the appellant had said to him about placing the grenades in question.

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In our opinion evidence of this nature, such as that which is sought to be introduced by means of the application now before us, and which is intended, in essence, to substitute in the place of the relevant powers of the trial Court and of this Court, regarding evaluation of evidence, the opinion of a witness at the trial, is entirely outside the ambit of section 25(3) of Law 14/60.

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It is to be noted, in any case, that when the said witness related at the trial what the appellant had told him about having placed the grenades, he did add, too, that he did not take the appellant seriously, because the appellant was in the habit of talking about things which he had not, actually, done; in other words, what is contained in the now before us signed declaration of such witness has been, already, stated on oath before the trial Court, which had, thus, the opportunity to weigh it together with the rest of the relevant evidence.

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Application dismissed.