

1982 May 3

[A. LOIZOU, SAVVIDES, STYLIANIDES, JJ.]

AMVROSIOS ANTONIOU,

*Appellant,*

v.

THE POLICE,

*Respondents.*

*(Criminal Appeal No. 4303).*

*Findings of fact made by trial Court—Based on credibility of witnesses  
—Duly warranted by the evidence adduced.*

5 *Administration of justice—Problems to—Caused by indiscriminate  
filing of appeals—Need for legislative action limiting where  
necessary and with the necessary safeguard the right of appeal  
in the interests of the better administration of justice.*

*Appeal—Right of appeal—Limit of.*

10 The appellant appealed against his conviction for taking part  
in a fight in a public place and his appeal turned solely on the  
findings of fact of the trial Judge based on the credibility of  
witnesses. The Court of Appeal dismissing the appeal on the  
ground that the findings of the trial Judge were duly warranted  
by the evidence adduced and there was nothing to render vulne-  
15 rable the evaluation made by him of the credibility of the wit-  
nesses observed:

- (a) That the indiscriminate filing of appeals, as the present,  
in recent years has created serious problems for the  
administration of justice burdening the Supreme Court  
with unnecessary litigation.
- 20 (b) That the time is ripe for legislative action limiting  
where necessary and with the necessary safeguards  
the right of appeal in the interests of the better admi-  
nistration of justice.

*Appeal dismissed.*

**Appeal against conviction.**

Appeal against conviction by Amvrosios Antoniou who was convicted on the 18th February, 1982 at the District Court of Nicosia (Criminal Case No. 17958/81) on two counts of the offences of taking part in a fight and of creating a noise in a public place contrary to sections 89, 90 and 20 of the Criminal Code Cap. 154 and was bound over by S. Nicolaides, D.J., in the sum of £100.—for one year to keep the peace and be of good behaviour on the first count and was sentenced to pay £5.—fine on the second count.

*G. Papatheodorou*, for the appellant.

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

A. LOIZOU J. gave the following judgment of the Court. This is an appeal by the appellant against his conviction for taking part in a fight in a public place, to wit, in Salamis Avenue in Nicosia on the 24th day of September, 1981, contrary to section 89 of the Criminal Code, 154, and also for creating at the same time and place a noise without reasonable cause in a manner likely to cause a breach of the peace, contrary to sections 95 and 20 of the Code.

This is one of those appeals whereby the findings of fact of the trial Court based on the credibility of the witnesses are challenged, the ground of appeal being that having regard to the evidence adduced, the conviction was unreasonable.

The facts as found by the trial Judge are as follows: The appellant is the owner of a kiosk at Salamis Avenue and ordered a sign-post to be made by accused 1 at the trial and his partner, Andreas Klonaris, one of the prosecution witnesses, which they did and which accused 1 installed on the 23rd September with the help of the appellant. In the afternoon of the following day these two partners met the appellant and they had a heated discussion about the price to be paid for the sign and upon their refusal to make a discount, the appellant threw the money for this sign at Klonaris and asked them to get out of his kiosk using also an insulting word. Accused 1 replied that he would leave when he pleased and that he would call the Police and report him for insulting him. He proceeded then to the phone which was on one of the windows of the kiosk and tried to dial the Police. The appellant rushed at him, pushed him away,

he moved for a pace or two and then they came to grips and both fell on the ground still fighting and hitting each other. Whilst this incident was taking place on the pavement of Salamis Avenue, a lot of people gathered and tried to separate them.

5 The trial Judge relied on the evidence of the witnesses for the prosecution and the evidence given on oath by the first accused at the trial who incriminated the appellant and supported by his testimony the evidence of the witnesses for the prosecution. All the constituent elements of the offences for which the appellant and the co-accused were found guilty were established  
10 by the evidence as accepted by the trial Judge.

We find no merit in this appeal. The findings of the trial Judge were duly warranted by the evidence adduced and there was nothing whatsoever to render vulnerable the evaluation  
15 made by him of the credibility of witnesses. The indiscriminate filing of appeals, as the present, in recent years has created serious problems for the administration of justice burdening the Supreme Court with unnecessary litigation. In our view the time is ripe for legislative action limiting where necessary  
20 and with the necessary safeguards the right of appeal, in the interests of the better administration of justice.

For all the above reasons this appeal is dismissed.

*Appeal dismissed.*