

1983 August 31

[TRIANTAFYLIDIS, P.]

IN THE MATTER OF AN APPLICATION BY ANDREAS GEORGHIADES FOR AN ORDER OF HABEAS CORPUS AND FOR LEAVE TO APPLY FOR AN ORDER OF CERTIORARI.

(Application No. 14/81).

Certiorari—Leave to apply for—Prima facie case—Application for leave to apply for an order of certiorari quashing judicial warrant of arrest—Issue whether or not such warrant is “reasoned” in the sense of Article 11.3 of the Constitution—And issue whether or not it could have been issued in the circumstances it was applied for—Constitute prima facie case. 5

Warrant of arrest—Judicial warrant of arrest—Whether reasoned in the sense of Article 11.3 of the Constitution—Alleged participation in a conspiracy to pervert or defeat the course of justice by giving false evidence at the trial of a Civil action—Whether warrant of arrest could be issued in respect of such alleged participation by a Judge, other than the trial Judges in such action, and whilst it was still being heard by them and before it could be known whether or not the evidence given by applicant at such trial was believed by the trial Judges. 10
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Following the arrest of the applicant, on the strength of a judicial warrant of arrest, he applied for leave to apply for an order of certiorari quashing the warrant of arrest.

Held, that since there arises the issue whether or not the warrant in question is “reasoned” in the sense of Article 11.3 of the Constitution and the issue whether or not the said warrant could have been issued in the circumstances in which it was applied for by the Police, namely for the arrest of the applicant in respect of his alleged participation in a conspiracy to pervert or defeat the course of justice by giving false evidence at the trial of a civil action (No. 1121/79 in the District Court of Nicosia) while such action was still being heard by Judges of the District Court of Nicosia other than the Judge who has issued the warrant and, thus, before it could be known whether or not the evidence 20
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given by the applicant at such trial was believed by the trial Judges, a prima facie case has been sufficiently made out so as to justify the granting of the applied for by applicant leave; and that, consequently, leave is granted to the applicant to file
5 an application for an order of certiorari.

Application granted.

Application.

Application for leave to apply for an order of certiorari quashing the warrant of arrest issued by a Senior District Judge
10 in Nicosia against the applicant.

L. Papaphilippou with E. Lemonaris and Chr. Christofides,
for the applicant.

Cūr. adv. vult.

TRIANTAFYLIDIS P. read the following decision. The present
15 application was filed on the 27th July 1981 after the applicant had been arrested on the same day on the strength of a warrant of arrest which was issued by a Senior District Judge in Nicosia.

On the 28th July 1981, after an application for an order re-
manding the applicant into custody was refused and, conse-
20 quently, he was set free, counsel for the applicant withdrew that part of the present application which relates to an order of habeas corpus and pursued only the application for leave to apply for an order of certiorari quashing the aforesaid warrant of arrest.

In view of certain developments, to which I need not refer
25 in detail, this application was left in abeyance as it was possible that it would be discontinued; but, eventually, counsel appearing for the applicant has informed the Court that the applicant still seeks leave to apply for an order of certiorari quashing the
30 warrant of arrest in question.

At this stage I do not have to decide whether or not, in the
circumstances of the present case, such warrant can be quashed
by means of an order of certiorari, especially since after it
has been executed it is no longer operative in a manner entailing
35 any adverse for the applicant consequences.

All that I have to decide is whether the applicant has made
out a prima facie case entitling him to be granted leave to file

an application seeking an order of certiorari in respect of the said warrant.

In my opinion there arise at least two very serious issues in relation to which a prima facie case has been sufficiently made out so as to justify the granting of the applied for by him leave to the applicant. Such issues are the following: 5

First, whether or not the warrant in question is "reasoned" in the sense of Article 11.3 of the Constitution.

Secondly, whether or not the said warrant could have been issued in the circumstances in which it was applied for by the Police, namely for the arrest of the applicant in respect of his alleged participation in a conspiracy to pervert or defeat the course of justice by giving false evidence at the trial of civil action (No. 1121/79 in the District Court of Nicosia) while such action was still being heard by Judges of the District Court of Nicosia other than the Judge who has issued the warrant and, thus, before it could be known whether or not the evidence given by the applicant at such trial was believed by the trial Judges. 10 15

Consequently, leave is granted to the applicant to file, as applied for by him, an application for an order of certiorari; and such application should be filed within one month from today. 20

Application granted.