

FISHER,
C.J.
&
STUART,
P.J.
}
NICOS G.
ICONOMIDES
v.
GEORGHIOS
HAJI
NICOLA
ARISTO-
DIMOS
PHINIEUS
—

Now he knew of appellant's writ, and to safeguard himself he did two things; he went to the Registrar and had the note made, which I have referred to (and it may be he did not mention 1461 then because he had a sound guarantor in that case), and he subsequently settled 1462 by taking a mortgage not only for that debt but also for one not yet due. The position therefore, is really this: The plaintiff, in view of defendant's financial position and dealings with his property, innocently got the date fixed, infringing no rule, and when he was told by respondent's advocate, who knew of the plaintiff's writ, of the two other actions, he being under the impression that his own action would lead to nothing, said he would speak to his advocate (*see* evidence). Appellant's advocate meanwhile obviously did not refrain from action relying on what appellant had said, nor was he "misled by the appellant" because he took the steps I have mentioned. It is clear from his own admission that he can get his money out of the guarantor in 1461, it seems, he might have included it in the mortgage settling 1462. Therefore the guarantor is the person really interested in the success of these proceedings.

Allegations of fraud must be definitely stated and proved. In this case there is nothing to show that the plaintiff did anything but endeavour by legitimate means to recover his money.

Appeal allowed.

FISHER,
C.J.
&
GRIM-
SHAW,
ACTING P.J.
1923
}
October 11
—

[FISHER, C.J. AND GRIMSHAW, ACTING P.J.]

REX

v.

VRASHIMI JOUVANNI SARROU.

JURISDICTION—CHANGE IN PUNISHMENT—LAW 12 OF 1914 SEC. 17 (2)—LAW 29 OF 1923.

A District Court tried accused on a charge of attempted rape. The offence was committed before the passing of Law 29 of 1923, also accused was committed for trial before the District Court before that Law was passed.

QUERY: Did the passing of that law which increased the penalty from two years to five years oust the jurisdiction of the District Court in proceedings already commenced.

The District Court convicted accused, who appeals against that conviction.

For Appellant *Paschalis* and *Chacallis*.

For Crown *Assistant King's Advocate*.

Judgment: Affirming conviction and sentence of the District Court.

Appeal dismissed.