

So again the Government considered it necessary to ascertain the names and residences of the actual members of the applicant's family, his father and mother, his wife, if any, and his children.

These persons, or at least some of them, might be presumed to be in a better position to know where the applicant was on the 5th November, 1914, than anybody else. Furthermore it is to be observed that the granting of a Certificate of Nationality to a person about to leave the Island for a foreign country (upon which the issue to him of a passport would necessarily depend) containing a false declaration concerning the applicant's dependants such as wife, and/or children and parents, in certain cases might throw the burden of maintaining these dependants on the community of this country. Also a copy of this form of application for a certificate containing these false statements as to being married or not might obviously facilitate the commission of the offence of bigamy in a foreign country. The applicant has chosen to deny the existence of a wife whom the Government could have interrogated as to the whereabouts of her husband on that day, thereby depriving the Government of their most reliable source of information as to the truth of his statement on that crucial matter.

Regarded from that view alone the existence, or otherwise, of a wife seems to us a highly material particular, and, as to this, he has deliberately made a false statement.

The answer of the Court to the question submitted to it, is, that the statement of the applicant that he is not married, in reply to the question whether he is married or not, is a false statement in a material particular within the meaning of clause 6 of the Order in Council, 1917.

We remit the case to the Magisterial Court directing that it convict and sentence the accused.

[NETTLETON, C.J. AND DICKINSON, P.J.]

SHERIFF OF LIMASSOL

v.

CHRISTOS O. THEODOROS.

CONTEMPT—APPLICATION BY SHERIFF TO CIVIL DISTRICT COURT TO COMMIT—
COMMITTAL—PROCEDURE—INHERENT JURISDICTION—CRIMINAL MATTER—ARTS.
185, 187, 189 AND 212 OF THE ORDER IN COUNCIL, 1882—ARTS. 112, AND 123 OF THE
OTTOMAN PENAL CODE.

Appeal from an order of a Civil District Court dated 5th February, 1926, convicting appellant and passing sentence on him of three months imprisonment for contempt of Court.

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TON,
C.J.

&
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KELARI

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DICKIN-
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NETTLE- The facts are as follows:—

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—
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THEODOROS
—

Appellant was one of the judgment debtors in action No. 78/25 and a writ of execution against moveables had issued from the Court against appellant (*inter alia*). The Sheriff's officer, the Mudir, entered appellant's premises and seized a certain quantity of wine in the presence of the appellant and the Mukhtar. Appellant asserted that the wine had been sold to another person, one Yorgho Markides, and went away, ostensibly to find proof of his statement. After some delay the Mudir locked up the room in which the wine was, and gave the key to the Mukhtar. Sometime later the Mudir returned to appellant's house and found the locked room broken open, and the appellant engaged in delivering the wine to the alleged purchaser.

The Mudir reported to the Sheriff, and the Sheriff made an application to the Civil District Court to commit the appellant to prison for contempt of Court.

The Civil District Court issued an order on appellant to appear before it on the 5th day of February, 1926, to show cause, etc. On the 5th day of February, 1926, the appellant appeared and was represented by counsel. The Civil District Court heard evidence and arguments and found applicant guilty of contempt, and sentenced him to three months imprisonment.

HELD: That the order of conviction and sentence was bad.

That the Civil District Court had no jurisdiction.

That the appellant was not properly before the Court.

That he had committed an offence, if any, against the Criminal Law—O.P.C., Arts. 112 and 123.

That he should have been charged before, and committed for trial by, a Magistrate; and tried on information before the Criminal District Court.

That Art. 212 of the Order in Council 1882, only applies to contempts within the precincts or neighbourhood of the Court.

For Appellant *Neoptolemos Paschal*.

For the Crown the *Assistant Attorney-General*.

Paschal: The procedure is wrong; contempt is a criminal matter (*Christodoulides v. Christodoulides*). Civil Courts have no jurisdiction to commit for contempt except under Art. 212 of the Order in Council. Appellant an Ottoman subject (now British). By Art. 23 of the Order

in Council, Courts must apply Ottoman Law as amended by Cyprus Statute Law. Inherent jurisdiction does not arise as facts disclosed seem to show that, if appellant has broken the law, it amounts to a breach of Art. 112 or 123 of the Ottoman Penal Code. Appellant should have been prosecuted before a Magistrate and committed for trial and tried on information before the Criminal District Court.

Assistant Attorney-General replies.

Judgment: Art. 212 of the Order in Council gives the Courts of Cyprus powers and prescribes the procedure for enforcing by fine or imprisonment decorum in the Court and its vicinity, and also power to protect officials of the Court from insult, and parties and witnesses from intimidation whilst on the way to and from the Court; otherwise the Civil Courts of Cyprus have no statutory authority to punish persons for contempt, except by Arts. 185, 187 and 189 of the Order in Council, which provide punishment for non-attendance of, or refusal to give evidence by, witnesses.

In the present case the act that the appellant is charged with having committed appears to be an offence against articles 112 and 123 of the Ottoman Penal Code, and we cannot see that there is any reason why the ordinary Criminal Procedure was not adopted. Art. 23 of the Order in Council authorises the Courts to administer "Ottoman Law as amended by Cyprus Statute Law," in all cases where Ottoman subjects (now Cypriots) are parties, and it is asserted, and not denied, that appellant is a Cypriot.

It has been held in *Christodoulides v. Christodoulides*, C.L.R., Vol. XI.—Part I. (and compare in *re Pollard* P.C. Appeal Cases 1868, p. 120) that contempt is a criminal matter, and therefore the procedure applicable to criminal cases must be strictly observed. The proper procedure to bring a Cypriot before the District Court on a criminal matter (unless there is a special power vested in the Court as under Arts. 185, 187, 189 and 212 of the Order in Council, 1882), is by way of information after committal by a Magistrate. We hold that a man cannot be put on his trial before the District Court in a criminal matter by way of application to commit, except in the special circumstances provided for by the special articles of the Order in Council mentioned above. More particularly is this so in the present case, where the criminal matter complained of would, if proved, be a breach of one of the articles of the Ottoman Penal Code. We therefore allow the appeal and set aside the conviction and sentence and discharge the appellant.

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