

ASSIZE
COURT
OF NICOSIA

REX
v.
KRYIAKO
VARNAVA
HAJI PIERI
AND OTHERS

person as the Court would consider that it was natural that the complainant should complain to or not.

Rex v. Hassan Mulla Mehmed, VIII., C.L.R., p. 78, distinguished. In that case the complainant made three almost simultaneous complaints and all to persons to whom the Court considered it natural he should complain.

It was then sought by the Crown to put in the statement made to the non-commissioned officer as a dying declaration.

Medical evidence showed that deceased had been terribly stabbed, and from the nature of the wound and deceased's statement "I am dying," the Court inferred that deceased was conscious of impending death.

R. v. Woodcock, 1 Leach 502.

R. v. Dingler, 1 Leach 504.

R. v. Bonner, 6 C. & P. 386.

R. v. Cleary, 2 F. & F. 850.

The Court admitted the statement to the non-commissioned officer as a dying declaration and refused to follow the decision in *Rex v. Kalli Haji Sterko*, Vol. VIII., C.L.R., p. 96, and referred to the note to the appendix at p. 139 of Vol. VIII., C.L.R.

The first accused was found guilty of killing without premeditation, and the second accused was found guilty as an accomplice to the offence of killing without premeditation.

DICKIN-
SON,
ACTING C.J.
&
LUCIE-
SMITH,
ACTING P.J.
1927

March 17

[DICKINSON, ACTING C.J. AND LUCIE-SMITH, ACTING P.J.]

POLICE

v.

SHEVKET ADEM.

LAW 24 OF 1879, SECTION 54—SALE OF CIGARETTES OUT OF BANDEROLLES.

This is a case stated by the Magisterial Court of Nicosia.

In this case accused sold cigarettes otherwise than by the complete packet. Cigarettes so sold were taken out of packets which had been duly banderolled.

HELD: That it does not constitute an offence to sell cigarettes singly or otherwise, provided that the packet from which they are sold had originally been duly banderolled.

The Court at the same time fixed the date and place for the hearing of the petition on July.12th, 1926. The petitioner duly filed his statement of claim on the 18th day of June, 1926. The respondent by the present applicant asked the Court to dismiss the petition because, *inter alia*, the petitioner had failed to comply with the Rules of Court governing Parliamentary Election Petitions in England, and in particular, because petitioner had failed to serve respondent with a copy of the petition within five days, or at all. This fact petitioner (respondent in the application) admitted.

Pavlidis and *Lanitis* for Respondent (Applicant in the application).

Pitsillides for Petitioner (Respondent in the application).

Judgment : As no Rules of Court have been framed to deal with the practice and procedure to be observed in Cyprus Legislative Council Election Petitions, following the ruling in the judgment of this Court in the case of *Chacalli v. Emphiedji* and on general principles, we must hold that the Rules of Court governing practice and procedure in Parliamentary Election Petitions in England must be followed.

NETTLETON,
C.J.
&
DICKINSON,
P.J.

IN THE
MATTER OF
THE ORDER
OF THE KING
IN COUNCIL
AND
CHRISTODOULOS
KOURTELLOS

(NICOSIA ASSIZES.)

[NETTLETON, C.J., DICKINSON, P.J., THOMAS, P.D.C., FUAD AND
MAVROMATIS, J.J.]

REX

v.

KYRIAKO VARNAVA HAJI PIERI AND OTHERS.

MURDER—ADMISSIBILITY OF PARTICULARS OF COMPLAINT—LAW 1 OF 1886,
SECTION 29—SERIES OF COMPLAINTS—DYING DECLARATION—ACCOMPLICE TO
KILLING WITHOUT PREMEDITATION.

Lucie-Smith for the Crown.

Paschalis and *Stavrinakis* for accused.

Accused was charged with having murdered X. with premeditation. X. shortly after being stabbed made a complaint to a zaptieh and some four or five minutes later, on the arrival of a non-commissioned officer, made another complaint to him. The Court admitted the first complaint under section 29 of Law 1 of 1886, but refused to admit the second complaint, holding that the last "or" in the proviso to section 29 of Law 1 of 1886 is disjunctive, and that where a complainant has made a complaint to the first person or persons he or she has met, the Crown is precluded from adducing evidence of a later complaint made by the complainant to any other person, whether such other person is such a

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1926

November 23