

1953
April 22

EVRIPIDES
MICHAEL
ISKAS
v.
THE POLICE.

[HALLINAN, C.J., AND ZEKIA, J.]

(April 22, 1953)

EVRIPIDES MICHAEL ISKAS OF LINOI, *Appellant.*

v.

THE POLICE, *Respondents.*

(*Criminal Appeal No. 1942.*)

Courts of Justice Law, 1953 s. 30 (4)—Assumption of jurisdiction—Unnecessary to state reason—Accused cannot require trial by a particular judicial officer.

When brought before the Additional President of the District Court of Nicosia the accused person elected to be tried summarily under section 6 (4) of the Courts of Justice Law (Cap. 11)* and the Court assumed jurisdiction to try the case summarily. The accused was convicted and appealed.

Held: (1) The accused could not claim to be tried by the particular judicial officer who assumed jurisdiction; he could be tried by any officer having the powers of a President District Court, Nicosia District Court.

(2) The Court assuming jurisdiction need not record its reason for so doing.

Appeal dismissed.

Appeal by the accused from the judgment of the District Court of Nicosia (Case No. 1541/53).

M. Triantafyllides for the appellant.

M. N. Munir, Solicitor-General, for the respondents.

The judgment of the Court was delivered by:

HALLINAN, C.J.: In this case the appellant was charged with having committed grievous harm under section 225 of the Criminal Code and he, under that section, is liable to imprisonment for seven years. When the case came on before the President of the District Court of Nicosia the consent of the Attorney-General was filed under section 20 (4), proviso (d), of the Courts of Justice Law, (Cap. 11) and the appellant consented to summary trial under that section. He was subsequently tried by the Additional President of the District Court of Nicosia and convicted and sentenced to 18 months imprisonment.

Two points have been taken on the hearing of this appeal: first, that the appellant consented to be tried only by the President of the District Court of Nicosia, not by the Additional President, and, secondly, that the President of the District Court before he assumed jurisdiction to try the appellant did not exercise the judicial discretion which is required by section 20 (4).

As regards the first point the matter can be very easily disposed of by saying that, when an accused person is asked whether he consents to be tried summarily, he elects summary

* Now Sec. 30 (4) of the Courts of Justice Law, 1953, (40/53).

trial, he does not elect and should not be allowed to elect to be tried by any particular judicial officer. The submission made for the appellant if adopted would lead to absurd and incongruous results.

As regards the second point, as the Solicitor-General has pointed out, the Court which assumes jurisdiction under section 20 (4) is not obliged to record its reasons for so doing, and unless it is patent on the face of the record that the discretion has been improperly exercised we must assume that the assumption of jurisdiction was lawful.

In this particular case the Attorney-General, who presumably had seen the papers, had given his consent to a summary trial; and the event of the case, the sentence of 18 months imposed upon the appellant, shows that the Court was correct in trying the case summarily.

For these reasons I consider that this appeal should be dismissed.

ZEKIA, J. : I agree.

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(April 22, 1953)

MICHALAKIS S. SAVVIDES, *Appellant*,

v.

SAVVAS THEODOSSIOU, *Respondent*.

(*Civil Appeal No. 3962.*)

1953
April 22
MICHALAKIS
S. SAVVIDES
v.
SAVVAS
THEO-
DOSSIOU.

Sale of goods—Conditional passing of property on shipment—Cash against documents—Proper law of the contract—Proof of damage.

T, a bicycle-dealer in Famagusta, placed two orders for bicycles and parts with P Ltd. in England through S, a commission agent in Nicosia. Subsequently it was agreed that payment be made against documents. The goods relating to both orders arrived together; the first order was consigned to T but the bills of exchange of the second order were drawn on S. T took delivery of the first order but S, without T's consent, took the second order and converted it to his own use. T sued S for wrongful conversion and claimed £103 damages. S alleged that T had abandoned his interest in the second order; but T denied this.

The trial Court found that the property in the second order passed to T when P Ltd. placed it on board the ship; S was therefore liable for conversion whether or not T had requested S to be relieved from the contract with P Ltd.