[BOURKE C.J. AND ZEKIA J.]

MELIS ANTONI PALIOMESHITIS, *Appellant*,

v.

IOANNIS ROSSIDES, *Respondent*.

(*Criminal Appeal No.* 2119).

Criminal Procedure—Change of plea—Procedure—Desirability of keeping meticulous record—Accused unrepresented—Criminal Procedure Law, Cap. 14, *section* 66 (1).

At a certain stage of the proceedings the appellant intimated that he wished to change his plea and to plead guilty to the first count. The entry then appeared on the record "The Accused is allowed to enter a plea of guilty on count 1". Count 2 was withdrawn and the Magistrate proceeded to sentence in respect of the offence charged in the first count.

It was argued on behalf of the appellant that there was no proper plea of guilty taken and that the proceedings were deficient in that no formal conviction was entered on the record.

Held : that the trial Court clearly accepted a plea of guilty and the presumption was that the Magistrate was satisfied that the appellant understood the nature of his plea. That being so, the Court was entitled to proceed as it did as if the appellant had been convicted by the judgment of the Court.

Observations by Supreme Court on the desirability of keeping a meticulous record of proceedings in Criminal Cases, particularly where an accused person was not represented by an advocate.

Appeal dismissed.

Appeal against conviction.

The appellant was convicted at the District Court of Nicosia on the 29th August, 1957 (Criminal Case No. 2670/57) of the offence of common assault and was sentenced, by the Magistrate, to pay a fine of £15 and was further bound over for two years in the sum of £25 to be of good behaviour and to keep the peace.

A. Indianos for the appellant.

G. I. Pelaghias for the respondent.

The facts of this case sufficiently appear in the judgment of the Court which was delivered by :

BOURKE C.J. : On the 16th September, 1957, we dismissed this appeal and undertook to give our reasons later which we now proceed to do.

At a certain stage of the proceedings the appellant intimated that he wished to change his plea and to plead guilty on the first count. The entry then appears on the record " The Accused is allowed to enter a plea of guilty on count 1 ". Count 2 was withdrawn and the Magistrate proceeded to sentence in respect of the offence charged in the first count.

It was argued on behalf of the appellant that there was no proper plea of guilty taken and that the proceedings were deficient in that no formal conviction was entered on the record. We had no reason to think that in allowing the appellant to change his plea the Court below neglected to proceed in accordance with law. We are bound by the record and it appeared to us to be sufficiently indicated that the appellant was heard to admit guilt in respect of the offence charged in the first count. The trial Court clearly accepted this plea and the presumption is that the learned Magistrate was satisfied that the appellant understood the nature of his plea. That being so the Court was entitled to proceed as it did as if the appellant had been convicted by the judgment of the Court by virtue of the provisions of section 66 (1) of the Criminal Procedure Law. Moreover, since there was a plea of guilty the appellant was not entitled to appeal against conviction having regard to section 132 of the Criminal Procedure Law. In so far as paragraph (*e*) of the notice of appeal against conviction purports to be an appeal against sentence, we would point out that not only was the appeal lodged as being against conviction only but also that there was no application for the necessary leave to appeal against sentence.

We take the opportunity of advising Magistrates as to the desirability of keeping a meticulous record of proceedings. Particularly where an accused person is unrepresented by an Advocate the actual word or words used by the accused in pleading guilty to a charge should be recorded. There should also be a note that the charge has been read over to the accused and, in the instance of an undefended accused being an illiterate or a person unlikely to understand the elements of the offence, a note that the ingredients constituting the offence have been explained to him. Where the Court is satisfied that an accused understands the nature of the plea and the Court accepts it as amounting to a plea of guilty, it is desirable that such should be clearly indicated upon the record.

Appeal dismissed.