

TYSER, C.J.
&
BERTRAM,
J.

SHEVKI
CHAOUSH
AND OTHERS
v.
EMILE
LAPIERRE

It was contended that it was the duty of the Court upon the withdrawal of the plea to call upon the Defendant to state explicitly whether apart from the prescription he admitted the debt or not—but the article referred to is not capable of this construction.

Without expressing any opinion on the general construction of the article, it is sufficient for us to say that in this case no admission was made at the issues—inasmuch as the Defendant pleaded that the debt was paid—and that the subsequent withdrawal of this plea is not necessarily tantamount to an admission. It probably merely meant that the Defendant recognised that he could not prove the plea, owing to the fact that his principal witness was dead.

Art. 146 of the Commercial Code does not apply to this document because it does not satisfy the requisites of a promissory note. See *Haji Eleni v. Theophanides*, 4 C.L.R., 12. *Imperial Ottoman Bank v. Limburi*, 4 C.L.R., 48.

The appeal is allowed and the judgment of the Court below is set aside with costs both in this Court and in the Court below.

Appeal allowed.

TYSER, C.J.
&
BERTRAM,
J.
1907
Nov. 4

[TYSER, C.J. AND BERTRAM, J.]

POLICE

v.

AGATHOCLI A. KOKKINI AND OTHERS.

OTTOMAN PENAL CODE—ART. 260—DISTURBANCE OF THE PEACE.

It is not necessary for a conviction for disturbing the peace under Art. 260 of the Ottoman Penal Code that it should be proved that the peace of the inhabitants was actually disturbed.

It is sufficient if the disorder complained of was of such a nature as to be calculated to produce this result.

This was an appeal from a conviction of the District Court of Larnaca.

The Defendants were convicted of an offence against Art. 260 of the Ottoman Penal Code.

The evidence showed that the Defendants chased the complainant through the village of Angastina to his house, shouting and throwing stones at him as they pursued him.

Agathocli A. Kokkini one of the Defendants appealed.

Pascal Constantinides for the Appellant.

In order to justify a conviction under Art. 260 of the Ottoman Penal Code it is necessary to show that the peace of the inhabitants was actually disturbed. The Greek translation accurately expresses the original "διαταράττοντες οὕτω τὴν ἡσυχίαν τῶν κατοίκων." Here there was no evidence that the peace was disturbed.

Amirayan, for the Respondents, was not called upon.

Judgment: CHIEF JUSTICE: The Turkish text shows that it is not necessary to prove that the peace of the inhabitants was actually disturbed. It is sufficient if the disorder complained of was of such a nature as to be calculated to disturb the peace of the inhabitants. I cannot imagine circumstances to which the words of the article could more aptly apply than the facts of this case.

BERTRAM, J., concurred.

Appeal dismissed.

TYSER, C.J.
&
BERTRAM,
J.

—
POLICE
v.
AGATHOGLI
A. KOKKINI
AND OTHERS
—

[TYSER, C.J. AND BERTRAM, J.]

ZAPHIRIO MALAMATENIO,

Plaintiff,

v.

RATIB EFFENDI IRIKZADE,

Defendant.

TYSER, C.J.
&
BERTRAM,
J.
1907

—
Nov. 4
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PRACTICE—COSTS OF APPEAL—ATTENDANCE OF PARTY FOR THE PURPOSE
OF INSTRUCTING ADVOCATE.

As a general rule the costs of a party to an appeal from a District Court who attends an appeal for the purpose of instructing his Advocate are not allowable on taxation.

Review of Taxation. Appeal from the decision of the Registrar of the Supreme Court.

In this case (which was an appeal from the decision of the District Court of Paphos) the Plaintiff, who was himself an Advocate, attended the appeal for the purpose of instructing his Advocate, and included in his bill of costs the expenses of his travel and sustenance. The Registrar disallowed the expenses. The Plaintiff appealed.

Artemis for the Appellant.

The object of this appeal is to obtain a decision on the question whether a party to an appeal from a District Court, who attends the hearing of the appeal for the purposes of instructing his Advocate is entitled to his costs. I cannot contend in this case that there were any special circumstances which necessitated the attendance of the litigant.

G. Chacalli, for the Respondent, was not called upon.

Judgment: As a general rule the costs of a party attending an appeal are not to be allowed on taxation. There may be special circumstances under which the Court would allow such costs. As to that we express no opinion. There were no such special circumstances in this case.

Appeal dismissed.