

1968
Dec 20, 23

[VASSILIADES, P, STAVRINIDES AND HADJIANASTASSIOU. JJ]

GEORGHIOS
NICOLA
CHRISTO
DOULIDES
v.
THE POLICE

GEORGHIOS NICOLA CHRISTODOULIDES,
Appellant,
v.
THE POLICE,
Respondents

(Criminal Appeal No 3050)

*Criminal Procedure—Appeal—Findings of fact made by trial
Courts—Credibility of witnesses—Approach on appeal*

*Appeal—Findings of fact resting on credibility of witnesses—
Approach on appeal—Principles restated*

*Findings of fact—Appeal—Approach by the Appellate Court—
See above*

*Witnesses—Credibility—Assessment of credibility of witnesses
made by trial Courts—Principles upon which the Appellate
Court will intervene*

*Credibility of witnesses—Assessment—Findings resting on credi-
bility—Approach on appeal*

*Criminal Law—Forgery contrary to sections 335 and 336 of the
Criminal Code, Cap 154*

This is an appeal against conviction on the ground that the findings of fact made by the trial Court are unsatisfactory having regard to the evidence. Dismissing the appeal, the Court restated the principles upon which it will interfere on appeal with findings of fact resting on the credibility of witnesses.

*Appeal dismissed Con-
viction affirmed*

Cases referred to

Lambides v The Police (1967) 2 C L R 142 at p 148 ,
Paspallis v The Police (reported in this Part at p 108
ante)

Appeal against conviction.

Appeal against conviction by Georghios Nicola Christodoulides who was convicted on the 17th October, 1968, at the District Court of Nicosia (Criminal Case No 5365/68)

on 2 counts of the offence of forgery contrary to sections 335 and 336 of the Criminal Code, Cap. 154, and was sentenced by Vakis, D.J., to three years' imprisonment on each count, the sentences to run concurrently.

Chr. HadjiNicolaou, for the appellant.

M. Kyprianou, Counsel of the Republic, for the respondents.

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The judgment of the Court was delivered by :

VASSILIADES, P.: In September, 1967, the appellant filed in the District Court of Nicosia a civil action against his paternal uncle with a claim of £2,000 on two promissory notes alleged to have been signed and issued, to him by his uncle. On being served with the summons in the action, the uncle, who had never signed either document, consulted his lawyer and reported the matter to the Police.

The Police investigation resulted in the prosecution of the appellant for the forgery of the two bonds, both of which are admittedly in the handwriting of the appellant and purport to have been signed by his uncle who, on his part, entirely denies having signed the bonds or, for that matter, of knowing anything about them.

In view of the nature of the charges the appellant was committed for trial by an Assize Court ; but, eventually, the case was remitted for summary trial, under directions made by the Attorney-General under section 155 (b) of the Criminal Procedure Law (Cap. 155).

The bonds are before the Court having been admitted as part of the prosecution case, which also includes the evidence of the uncle and that of a handwriting expert. The appellant elected, in due course, to give evidence at the trial ; and called a witness for the defence, regarding the disputed signatures.

Dealing with the issues arising for decision, the trial Judge put the matter clearly and precisely as follows :

“ From what I have already stated, it becomes clear, as rightly and fairly put by learned counsel for the accused, that there is almost only one issue in this case and this turns on the question of credibility. Put in a simple form the issue is whether, in the light of all the evidence adduced, the Court may safely accept the evidence of the complainant or is prepared to accept that

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of the accused ; or thirdly, whether the evidence as a whole is such that the Court should entertain doubts as to the truth and correctness of the main allegations for the prosecution.”

Later in the course of his judgment the trial Judge says :

“ Having thus analysed the version of the accused and gone through the whole evidence, I have no hesitation in rejecting accused’s evidence. The accused did not satisfy me at all as a person of truth and I have no doubt that his version regarding the making of the two documents in question is nothing but a fabricated story ; and his intentions all through are obvious.”

And towards the end of the judgment, the trial Judge concludes :

“ The fact remains that the two signatures are forged and that the two documents are forgeries. And my conclusion is that there can be no other inference than that the accused is the perpetrator of this crime.”

The conviction based on the above findings, is challenged by this appeal mainly on the ground that the findings are unsatisfactory having regard to the evidence.

After hearing learned counsel for the appellant, who had a formidable case to meet, we found it unnecessary to call on counsel for the Republic. To succeed in this appeal, the appellant has to satisfy this Court that the findings of the trial Judge and his assessment of the credibility of the main witnesses are erroneous, or in any way unsatisfactory. (*Lambides v. The Police* (1967) 2 C.L.R. 142, at p. 148 ; *Paspallis v. The Police* (reported in this Part at p. 108 *ante*)).

Far from achieving that, the appellant finds this Court unanimous in the view that the evidence before the trial Judge fully justifies the conviction. The appeal must, therefore, fail. The appellant should, we think, consider himself very fortunate for having been tried by a Court which could not impose on him a sentence of more than three years’ imprisonment ; and should feel very thankful to his advocate for avoiding so carefully to touch the question of sentence. The trial Judge was, in our opinion, fully justified in imposing the maximum period of imprisonment within his powers.

Appeal dismissed ; conviction affirmed.