

1974
June 21
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CHRISTOS
EVANGELOU
VRAHIMIS
AND OTHERS
v.
THE POLICE

[TRIANTAFYLIDIS, P., STAVRINIDES, HADJIANASTASSIOU, JJ.]

CHRISTOS EVANGELOU VRAHIMIS AND OTHERS,

Appellants,

v.

THE POLICE,

Respondents.

(*Criminal Appeals Nos. 3583–3585*).

Criminal Procedure—Remand order in police custody concerning persons suspected to have committed an offence—Renewal of such order for a further period of time by a Judge other than the Judge who had earlier made it—Not excluded—Article 11.6 of the Constitution.

Remand order—Renewal—On the true construction of Article 11.6 of the Constitution, such renewal for a further period in police custody may be ordered by a Judge other than the Judge who had earlier made the order—See further immediately herebelow.

Constitutional Law—Construction of constitutional provisions—Article 11.6 of the Constitution—Said Article, when applied having in mind not only its strict letter, but, also, its substance, does not exclude the renewal by a Judge of a remand order which was originally made by another Judge.

Construction of constitutional provisions—Principles applicable—Article 11.6 of the Constitution—Cf. also supra.

Remand order—Matter of discretion—Principles upon which the Court of Appeal will intervene—In the instant case the Judge properly exercised his discretion in this respect—There being sufficient grounds justifying reasonable suspicion that the Appellants were implicated in the commission of the alleged offences.

Ill-treatment—Allegation of ill-treatment by the police during Appellants' detention—The views of the Court on the matter already expressed in the case of Nicolettides v. The Police (1973) 2 C.L.R. 222.

By these appeals under Article 11.6 of the Constitution the Appellants—suspects are complaining against the orders remanding them in police custody for eight more days as from June 14, 1974. The grounds in support of the appeals are mainly two:

First ground: The said orders were made without jurisdiction by a Judge of the District Court of Nicosia, because on June 6, 1974, the detention of the Appellants as suspects was ordered by another Judge, of the District Court of Larnaca; that being so, any renewal of the remand orders issued on June 6, 1974 as aforesaid should, under Article 11.6 of the Constitution, have been made by the same Judge at Larnaca.

Second ground: In any event, the remand orders complained of were made without sufficient justification and defective exercise of the relevant judicial discretion.

Article 11.6 of the Constitution reads as follows:

“The Judge before whom the person arrested is brought shall promptly proceed to inquire into the grounds of the arrest in a language understandable by the person arrested and shall, as soon as possible and in any event not later than three days from such appearance, either release the person arrested on such terms as he may deem fit or where the investigation into the commission of the offence for which he has been arrested has not been completed remand him in custody and may remand him in custody from time to time for a period not exceeding eight days at any one time:

Provided that the total period of such remand in custody shall not exceed three months of the date of the arrest on the expiration of which every person or authority having the custody of the person arrested shall forthwith set him free.

‘Any decision of the Judge under this paragraph shall be subject to appeal’.

Dismissing the appeals on both grounds, the Supreme Court:—

Held, 1: As regards the first ground (supra):

(1) Though, at first sight, the text of Article 11.6 of the Constitution when considered only from the point of view of

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its wording, might be treated as supporting the above argument of counsel for the Appellants, nevertheless, in view of the fact that every provision of the Constitution has to be construed in a manner rendering it workable, and in view, also, of the fact that many complications of circumstances might render it impossible to take a suspect for a renewal of his remand in custody, before the same Judge who decided originally concerning the need to detain him, we have reached the conclusion that Article 11.6 of the Constitution, when applied having in mind not only its strict letter but, also, its substance, does not exclude the renewal by a Judge of a remand order which was earlier made by another Judge.

(2) Consequently, the argument of lack of jurisdiction fails.

Held, II: As regards the second ground (supra).

(1) We have approached the matter in the light of the principle set out, *inter alia*, in *Hasip v. The Police*, 1964 C.L.R. 48, namely that a decision as to whether or not to issue an order for remand in custody is the product of the exercise of discretionary powers.

(2) Therefore, we can only interfere with such order if we are satisfied that the Judge's discretion was not exercised judicially on the particular occasion.

(3) And as it appears from the record there was ample evidence before the Judge justifying a finding that there existed sufficient grounds for reasonable suspicion on the basis of which he should remand the Appellants in custody.

Appeal dismissed.

Per curiam: Counsel for the Appellants complained that the Appellants were ill-treated by the police during their detention; but he did not rely on such ill-treatment as a ground for setting aside the subsequently made remand orders. Therefore, there does not arise the issue of allowing those appeals, because of the alleged ill-treatment of the Appellants; it suffices to say that the views of this Court on such a matter have already been expressed in the case of *Nicolettides v. The Police* (1973) 2 C.L.R. 222.

Cases referred to:

Nicolettides v. The Police (1973) 2 C.L.R. 222.

Appeal against remand order.

Appeal by Christos Evangelou Vrahimis and Others against the order of the District Court of Nicosia (Kolotas, D.J.) made on the 14th June, 1974, whereby Appellants were remanded in Police custody for eight days in connection with investigation by the police concerning the commission of offences in respect of which they have been arrested as suspects.

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Chr. Sozos, for the Appellants.

C. Kypridemos, Counsel of the Republic, for the Respondents.

The following judgment was delivered by:—

TRIANTAFYLLIDES, P.: During the hearing of the present appeals counsel for the Appellants has submitted that the orders remanding in custody the Appellants for eight days, as from June 14, 1974, were made without jurisdiction, by the Judge of the District Court of Nicosia who has made them, because on June 6, 1974, the detention of the Appellants as suspects was ordered by another Judge, of the District Court of Larnaca, and under Article 11.6 of the Constitution any renewal of the remand orders issued on June 6, 1974, should have been made by the same Judge at Larnaca.

Though, at first sight, the text of Article 11.6, when considered only from the point of view of its wording, might be treated as supporting the above argument of counsel for the Appellants, nevertheless, in view of the fact that every provision of the Constitution has to be construed in a manner rendering it workable, and in view, also, of the fact that many combinations of circumstances might render it impossible to take a suspect for a renewal of his remand in custody, before the same Judge who decided originally concerning the need to detain him, we have reached the conclusion that Article 11.6 of the Constitution, when applied having in mind not only its strict letter but, also, its substance, does not exclude the renewal by a Judge of a remand order which was earlier made by another Judge.

Counsel for Appellants complained that after the making of the earlier remand orders the Appellants were ill-treated by the police, but he did not rely on such ill-treatment as a ground for setting aside the subsequently made *sub judice* remand orders; therefore, there does not arise the issue of allowing

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these appeals because of the ill-treatment of the Appellants during their detention, and it suffices to say that the views of this Court on such a matter have already been expressed in the case of *Nicolettides v. The Police* (Cr. App. Nos. 3476/77, not reported yet).*

For the above reasons these appeals are dismissed.

Appeals dismissed.

* Now reported in (1973) 2 C.L.R. 222.