

LOIZOS SAVVA AND ANOTHER (NO. 1),

Appellants,

v.

THE POLICE,

Respondents.

LOIZOS SAVVA
AND ANOTHER
(No. 1)

v.

THE POLICE

(*Criminal Appeals Nos. 3794, 3795*).

Bail—Appeal from a decision concerning bail—Jurisdiction of the Supreme Court—Section 157(1) of the Criminal Procedure Law, Cap. 155.

5 These appeals were directed against the refusal of the Committing Judge to release the appellants on bail upon their committal for trial by the Assize Court.

10 Counsel for the respondents took objection to the effect that the Supreme Court did not possess jurisdiction to deal with these appeals under section 157 of the Criminal Procedure Law, Cap. 155; and he submitted in this respect, by citing, *inter alia*, *Xenophontos v. Charalambous*, 1961 C.L.R. 122, that the right of appeal provided for under section 25(2) of the Courts of Justice Law, 1960 (Law 14/60), can be exercised in criminal matters on the basis only of the relevant provisions of Cap. 155.
15 He further argued that in dealing with these appeals the Supreme Court would not be a "Court exercising criminal jurisdiction", in the sense of section 157(1)* of Cap. 155, and consequently it was not vested with jurisdiction to entertain them.

20 *Held*, that since any Court, when dealing at any stage with an application for bail, is exercising for this purpose criminal jurisdiction, this Court, too, when sitting on appeal from a decision concerning bail, is exercising, to the required limited extent, criminal jurisdiction in the sense of section 157(1) of Cap. 155; that this view is the one which is the most consonant with the

* Section 157(1) provides as follows:—

"Subject to the provisions of subsection (2) of this section, any Court exercising criminal jurisdiction may, if it thinks proper, at any stage of the proceedings, release on bail any person charged or convicted of any offence, upon the execution by such person of a bail bond as in this Law provided".

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protection of the interests of justice in general and of the liberty of the subject in particular and it coincides, too, with the proper construction of section 157(1); and that, accordingly, this Court has jurisdiction to proceed to deal with these appeals on their merits.

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Order accordingly.

Cases referred to:

Xenophontos v. Charalambous, 1961 C.L.R. 122;

Christofi v. The Police (1970) 2 C.L.R. 117;

Georghadji and Another v. The Republic (1971) 2 C.L.R. 229;

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Lazarou and Others v. The Police (1973) 2 C.L.R. 81;

Leftis v. The Police (1973) 2 C.L.R. 87;

Varellas and Others v. The Police, 19 C.L.R. 46.

Decision.

Decision on an objection of Counsel for the respondents to the effect that the Supreme Court does not possess jurisdiction to deal with appeals from a decision concerning bail, under section 157 of the Criminal Procedure Law, Cap. 155.

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L.N. Clerides with A. Papacharalambous, for appellant 1.

C. Indianos, for appellant 2.

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A. Evangelou with A.M. Angelides, Counsel of the Republic, for respondents.

The decision of the Court was delivered by:

TRIANTAFYLIDIS, P.: At this stage of the present proceedings before us we have to consider an objection of counsel for the respondents to the effect that we do not possess jurisdiction to deal with these appeals under section 157 of the Criminal Procedure Law, Cap. 155.

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He has submitted, in this respect, that, as has been decided in cases such as *Xenophontos v. Charalambous*, 1961 C.L.R. 122, *Christofi v. The Police*, (1970) 2 C.L.R. 117, *Georghadji and another v. The Republic*, (1971) 2 C.L.R. 229 and *Lazarou and others v. The Police*, (1973) 2 C.L.R. 81, the right of appeal, provided for under section 25(2) of the Courts of Justice Law, 1960 (Law 14/60), can be exercised in criminal matters on the basis only of the relevant provisions of Cap. 155. We see no reason to disagree with him on this point.

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He, however, went on to argue further that in dealing with

the present appeals we would not be a “Court exercising criminal jurisdiction”, in the sense of section 157(1) of Cap. 155, and, consequently, we are not vested with jurisdiction to entertain them. It seems that counsel for the respondents thought fit to raise this objection regarding our jurisdiction in view of the fact that in *Leftis v. The Police*, (1973) 2 C.L.R. 87, we chose not to pronounce finally in this connection.

The previous occasion when such an objection was raised appears to have been in *Varellas and others v. The Police*, 19 C.L.R. 46; the relevant statutory provision, which was in force at the time, was section 154(1) of the Criminal Procedure Law, Cap. 14 (in the 1949 Revised Edition of the Statute Laws of Cyprus) and it is the same as the at present in force section 157(1) of Cap. 155. In the *Varellas* case the Supreme Court did not sustain the objection and proceeded to deal with an appeal concerning bail. Since the *Varellas* case appeals of this kind were made both by persons in custody, to whom bail had been refused, as well as by the police, in cases in which bail had been granted, and in all those cases, to which we need not refer specifically, the appeals were entertained and decided, without any objection as to jurisdiction having been raised. Thus, a practice was established on the basis of what was decided in the *Varellas* case; but, of course, such practice cannot, in our view, be treated as being of so conclusive a nature as to preclude counsel for the respondents from reverting to the subject of the correct construction of section 157(1) of Cap. 155.

What we have been called upon to decide is whether in dealing with the present appeals we are a “Court exercising criminal jurisdiction” in the sense of that section; though admittedly this is an issue which did present some difficulty, we have, in the end, reached the conclusion that, since any Court, when dealing at any stage with an application for bail, is exercising for this purpose criminal jurisdiction, we, too, when sitting on appeal from a decision concerning bail, are exercising, to the required limited extent, criminal jurisdiction in the sense of section 157(1) of Cap. 155; in our opinion this view is the one which is the most consonant with the protection of the interests of justice in general and of the liberty of the subject in particular; and it coincides, too, with the proper construction of section 157(1), above.

We hold, therefore, that we have jurisdiction to proceed to deal with these appeals on their merits.

Order accordingly.