

1981 September 15

[TRIANAFYLLIDES, P., DEMETRIADES, SAVVIDES, JJ.]

ANASTASSIS P. GEORGHIOU MANTIS,

Appellant,

v.

THE POLICE,

Respondents.

(*Criminal Appeal No. 4232*).

Criminal Law—Shopbreaking and theft—Conviction—Evidence—Fingerprints of appellant—No credible explanation for their existence given by appellant—Conviction warranted beyond reasonable doubt.

Criminal Procedure—Charge-sheet—Framing—Joinder of counts— 5
Inclusion of 19 counts relating to serious offences and committed on various dates—Undesirable without adequate reasons justifying such a course.

The appellant was tried on a charge containing nineteen counts in respect of offences of shopbreaking and theft and was eventually convicted only on two counts. The conviction was mainly based on the fact that at the premises to which both the said two counts related there were found the fingerprints of the appellant, for the existence there of which he was not in a position to give any credible explanation. 15

Before concluding his judgment the trial Judge observed that the procedure followed by the Prosecution by adding 19 counts relating to serious offences and committed on various dates was inadvisable and unorthodox (*vide p. 236 post*).

Upon appeal against conviction: 20

Held, that, considering all the material on record, the conviction of the appellant was warranted beyond reasonable doubt and therefore the appeal should be dismissed.

Appeal dismissed.

Observations: We highlight the views expressed by the trial Judge 25

in the above passage and we hope that, in future, the joinder of too many counts, such as those in the present case, will not take place without adequate reasons justifying such a course.

5 **Appeal against conviction.**

Appeal against conviction by Anastassis P. Georghiou Mantis who was convicted on the 13th June, 1981 at the District Court of Limassol (Criminal Case No. 280/81) on two counts of the offence of shopbreaking and theft contrary to sections 10 255 and 294(a) of the Criminal Code Cap. 154 and was sentenced by Eleftheriou, D.J. to concurrent terms of two years' imprisonment on each count.

Appellant appeared in person.

M. Photiou, for the respondents.

15 TRIANTAFYLLIDES P. gave the following judgment of the Court. The appellant has appealed against his conviction by the District Court of Limassol, on June 13, 1981, of the offences of shopbreaking and theft, contrary to sections 255 and 294(a) of the Criminal Code, Cap. 154.

20 He was tried on a charge containing nineteen counts in respect of similar offences but he was, eventually, convicted only on counts Nos. 1 and 12.

25 According to the particulars of count 1, the appellant, between June 28 and 29, 1980, having committed a felony in a bakery in Limassol by stealing therefrom the sum of C£2,485 mils, broke out of the said bakery; and according to count 12, the appellant, between September 22 and 23, 1980, at Moni village, broke and entered the co-operative grocery shop of that village and stole therefrom the sum of C£400.

30 As the appellant had approximately 119 previous convictions of a similar nature, he was sentenced to imprisonment for two years on each count, the sentences to run concurrently.

He has appealed only against his conviction.

35 The trial Judge, who acquitted the appellant on counts Nos. 2 to 11 and 13 to 19, perused very carefully all the evidence that was adduced in support of the case for the prosecution

regarding the guilt of the appellant on counts 1 and 12 and in the light of such evidence and, especially, of the fact that at the premises to which both the said two counts relate there were found the fingerprints of the appellant, for the existence there of which the appellant was not in a position to give any credible explanation, proceeded to convict the appellant on the aforesaid two counts. 5

Having heard what the appellant had to say in support of his appeal, when he argued his case today in person before us, and having considered all the relevant material on record, we find that the conviction of the appellant on the aforementioned counts Nos. 1 and 12 was warranted beyond reasonable doubt and we, therefore, have no difficulty in dismissing this appeal. 10

We would like to add, further, that we have noted, particularly, the following observations in the judgment of the trial Judge: 15

“Before concluding this judgment, I feel bound to stress that the procedure followed by the Prosecution in framing the charge sheet, by adding 19 counts relating to serious offences and committed on various dates and within a long period of time is not only inadvisable but also unorthodox as it deprives the accused of the opportunity to defend his case properly and the Prosecution to present its case and generally it is not for the interests of justice and in the future it should be avoided”. 20 25

We highlight the views expressed by the trial Judge in the above passage and we hope that, in future, the joinder of too many counts, such as those in the present case, will not take place without adequate reasons justifying such a course. 30

In the result this appeal is dismissed.

Appeal dismissed.