

1988 September 24

(HADJITSANGARIS, J)

IN THE MATTER OF THE APPLICATION BY CHRISTAKIS SIEKKERIS  
AND ANOTHER FOR LEAVE TO APPLY FOR ORDERS OF  
CERTIORARI AND PROHIBITION,

and

IN THE MATTER OF THE CRIMINAL CASE NO 8914/88 OF DISTRICT  
COURT OF LARNACA,

*(Applications Nos. 147/88 and 148/88).*

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*Prerogative Orders — Certiorari/Prohibition — Leave to apply for —  
Principles applicable — «Arguable point», «Prima facie case».*

The facts sufficiently appear in the judgment of the Court.

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*Leave to apply for Certiorari  
and Prohibition granted.*

*Cases referred to:*

*Re Malikkides and Others* (1980) 1 C.L.R. 472;

*Re Kakos* (1984) 1 C.L.R. 876;

*Re Kakos* (1985) 1 C.L.R. 250;

10 *Re Argyrides* (1987) 1 C.L.R. 23.

**Applications.**

15 Applications for leave to apply for orders of certiorari and  
prohibition for the purpose of quashing the ruling of the District  
Court of Lamaca in Criminal Case No. 8914/88 and prohibiting  
the Judges of the above District Court from hearing the said case  
which is fixed for hearing on 13.10.88.

*A. Iacovides*, for applicant in Appl. No. 147/88.

*E. Vrahimi (Mrs.)*, for applicant in Appl. No. 148/88.

*Cur. adv. vult.*

20 HADJITSANGARIS J. read the following decision. These two  
applications deal with identical issues and I have decided with the

consent of the parties to take them together and give one decision.

By the above two applications the applicants pray for leave to apply for an order of:

(a) Prohibition, prohibiting the judges of the District Court of Lamaca to continue the hearing of Criminal Case No. 8914/88 which is fixed for hearing on 13.10.88. 5

(b) An order of Certiorari for the purpose of quashing the ruling of the District Court of Lamaca dated 19.9.88 by virtue of which the said court rejected the application by the applicants to the effect that the District Court of Lamaca had no jurisdiction to try the Criminal Case No. 8914/88 and that the proceedings before the said District Court were illegal. 10

The facts of this case are briefly as follows: On the 24.1.87 the District Court of Lamaca issued an injunction in civil action No. 195/87 between Heli Air Egypt (J.S.C.) of Egypt v. 1. Reinhard Drescher, of Germany and 2. Olaf Sehlip of Germany restraining the defendants, or their servants and/or agents from removing from the jurisdiction or otherwise disposing the Daulphin SA 365 C2 Helicopter Ser. No. 5052 situated within the jurisdiction and in particular at the Lamaca airport. Furthermore by the aforesaid order the departure of the said helicopter was forbidden without the written consent of the plaintiffs. Apparently the said helicopter illegally departed from Cyprus. 15 20

On 19.9.1988 Criminal Case No. 8914/88 was filed against the two applicants charging them for contempt of Court for the alleged contravention of the Order of the Court in the above civil action. On the same day the said criminal case No. 8914/88 came up before a Senior District Judge of the District Court of Lamaca and objection was taken to the jurisdiction of the Court by both counsel for the applicants. The learned trial judge gave his ruling on 19.9.88. In his sound ruling the trial judge found that he had jurisdiction to try the said case for alleged contempt of court by the applicants. 25 30

As I already stated it is the allegation of the applicants that the judge in giving this ruling acted without authority and or in excess of authority. The question which falls for determination by me at this stage is whether there is a prima facie arguable case made out sufficiently to justify the granting of leave to the applicants to move this court in due course to issue an order of certiorary and 35

prohibition. The Supreme Court at this stage must be satisfied by the material before it, if accepted as accurate, that a prima facie case is made out or an arguable point is raised. The expressions «arguable point» and «prima facie case» are used in the sense of a case that it is sufficient that the applicant should show that there is a bona fide arguable case without the need to go into any rebutting evidence put forward. *In Re Malikides and Others* (1980) 1 C.L.R. 472, *In Re Kakos* (1984) 1 C.L.R. 876, *In Re Kakos* (1985) 1 C.L.R. 250, *In Re Argyrides* (1987) 1 C.L.R. 23.

- 10 At this stage it appears to me that the two applicants have a prima facie arguable case that the learned Judge acted in excess of jurisdiction, a fact prima facie apparent on the record and in the circumstances I grant leave to the two applicants to file an application for an order of certiorary and prohibition. Application to be filed within 15 days from today. Opposition to such application to be filed within 15 days thereafter. Copy of this order to be served on the Registrar of the District Court of Larnaca. All proceedings in criminal case No. 8914/88 of the District Court of Larnaca are hereby stayed.

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*Applications granted.*