

1988 May 14

(A. LOIZOU, P., MALACHTOS, DEMETRIADES, STYLIANIDES, PIKIS, KOURRIS, JJ)

THE ATTORNEY - GENERAL OF THE REPUBLIC,

Applicant,

v.

1. PANAYIOTIS AGAPIOU PANAYI, ALIAS KAFKARIS,
2. CHARALAMBOS ANTONIOU MICHAEL, ALIAS AEROPOROS,
3. ANDREAS ANTONIOU MICHAEL, ALIAS AEROPOROS,

Respondents.

(Criminal Application No. 1/88).

5 *Criminal Procedure — Change of venue — The Criminal Procedure Law, Cap. 155, section 174(1) (a) (d) and (e) — Principles applicable — Grounds of security, risk of escape, calm atmosphere conducive to the ends of justice, are among the reasons justifying an order for change of the place of trial.*

The facts of this case appear sufficiently from the judgment of the Court.

Application granted.

Cases referred to:

- 10 *Attorney-General v. Steniotis* (1967) 2 C.L.R. 295;
Attorney-General v. Rossides (1970) 2 C.L.R. 105;
Attorney-General v. Tsekouras (1973) 2 C.L.R. 341;
Attorney-General v. Pavlides (1978) 2 C.L.R. 437.

Application.

- 15 Application by the Attorney-General of the Republic under section 174(1)(a)(d) and (e) of the Criminal Procedure Law, Cap. 155 for an order of the Court for the transfer to Nicosia for trial of Criminal Case No. 23069/87 which was committed for trial before the Assize Court of Limassol.

M. Triantafyllides, Attorney-General of the Republic with N. Charalambous, Senior Counsel of the Republic, for the applicant.

Chr. Pourgourides, for the respondents.

A. LOIZOU P. gave the following judgment of the Court. By the present application, made under Section 174(1)(a)(d) and (e) of the Criminal Procedure Law, Cap. 155, the Attorney-General of the Republic seeks from this Court an order for the transfer to Nicosia of the trial of Criminal Case No. 23069/87 which was committed for trial before the Limassol Assize Court. 5 10

The grounds upon which the Attorney-General relies for his application are set out in an affidavit filed in support thereof, although under subsection 3, of section 174 of the Criminal Procedure Law it was not necessary for the Attorney General to do so. 15

The accused have been committed for trial for very serious offences, such as conspiracy to murder, commission of premeditated murder and others. The grounds given for the making of the order include, inter alia, the risks which may exist on account of the daily transportation of the accused from Nicosia to Limassol, such transportation being essential in view of the fact that Limassol has no suitable place of their safe detention for long periods. Also that there is reliable information that possibly serious incidents may occur in the Court in Limassol, both as regards the accused themselves as well as the Police, and a serious risk of escape during the trial of the case without excluding the fact of a possible attempt to escape in a manner that will expose human lives to danger. 20 25

The provisions of Section 174 of the Law have been judicially interpreted inter alia in the cases of *The Attorney-General of the Republic v. Steniotis* (1967) 2 C.L.R. 295; *The Attorney-General of the Republic v. Rossides* (1970) 2 C.L.R. 105; *The Attorney-General of the Republic v. Tsekouras* (1973) 2 C.L.R. 341; and *The Attorney-General v. Pavlides* (1978) 2 C.L.R. 437. 30

We need not therefore repeat these principles; suffice it to say that paragraph (e) of Section 174(1) provides «that such an order is expedient for the ends of justice», and by our Case Law grounds of security, the risk of escape of the accused, and a calm atmosphere conducive to the ends of justice have been included among those covered under the wide provision of this paragraph. 35 40

We are of the view that when there is a serious possibility of any of the aforesaid grounds occurring, this Court is entitled and we may say, it has a duty to grant the order applied for, being expedient for the ends of justice.

- 5 For these reasons the Court grants the application and orders that the trial of the said case be held in Nicosia by the Limassol Assize Court to which it has been committed. The composition of the said Assize Court is a matter of directions of the Supreme Court and in fact they have already been given.
- 10 The order is subject to the term that all costs resulting from the transfer of the case, such as costs of defence witnesses, travelling expenses of counsel and other expenses shall be paid out of public funds.

Order accordingly.