[WILSON, P., ZEKIA, VASSILIADES and JOSEPHIDES, JJ.]

CHARALAMBOS ZACHARIA,

Appellant,

v.

THE REPUBLIC,

Respondent.

(*Criminal Appeal No.* 2458).

Evidence in criminal cases — Accomplices—Corroboration—What constitutes sufficient corroboration—

Observations as to the duties of trial courts in dealing with the aforesaid matters.

Trial in criminal cases—Cross-examination of prosecution witnesses—Discretion of the trial court as to how far it may go or how long it may continue.

Criminal Procedure—Appeal—Evidence wrongly admitted—No miscarriage of justice—The Criminal Procedure Law, Cap. 155, section 145 (1) (b), proviso.

Criminal Procedure—Appeal—Credibility of witnesses.

The trial court having treated the three main witnesses for the prosecution as accomplices warned themselves that corroboration of their evidence was necessary. The trial court found such evidence and convicted the appellant of premeditated murder. The main point involved in this case is whether there was sufficient corroborative evidence connecting the appellant with the commission of the crime. It was conceded that there was ample corroborative evidence that the crime had been committed. Objection was also taken by counsel for the appellant that the trial court unduly stopped the cross-examination of certain prosecution witnesses. The point was also raised that certain irrelevant and prejudicial evidence was wrongly admitted.

Held : (1) (*ZEKIA J. partly dissenting*) : There was sufficient corroborative evidence implicating the appellant in the commission of the crime.

(2) Although irrelevant and prejudicial evidence was wrongly admitted, still regard being had to its nature and the whole of the evidence adduced, the trial court must inevitably

have come to the same conclusion if the evidence had not been admitted. This is a case, therefore, where the proviso to section 145 (1) (b) of the Criminal Procedure Law, Cap. 155, on the ground that no substantial miscarriage of justice has actually occurred, has to be applied.

(3) The objection taken that the trial Court stopped the cross-examination of prosecution witnesses, fails because the trial was conducted fairly and all reasonable latitude was allowed in cross-examination of the prosecution witnesses.

Principle stated by Lord Wright in the Privy Council case of *Vassiliades v Vassiliades* 18 C L.R 10, at page 22, *applied.*

(4) As to the question of credibility of witnesses, unless one is prepared to go to the extent of finding the verdict arrived at to be unreasonable, such verdict must stand. And in this case it cannot be said that the trial court went too far to the extent that having regard to the evidence adduced the conviction was unreasonable.

Per VASSILIADES J. :— I think that the position in Cyprus, can be usefully summarized as follows .—

1. Where the trial-court is considering the evidence of a witness who may, or may not, be an accomplice in the case, the court must first determine the question whether the witness is, in their view, an accomplice.

2. Where the witness is manifestly an accomplice or the court considers him as such, the next question to be considered is whether, as a matter of credibility, the court are, or are not prepared to act on his evidence without corroboration. In this connection, the court are required by law, to remind themselves, that an accomplice is a tainted witness, whose evidence may be influenced by his connection with the crime ; and it is therefore dangerous to act on his testimony without corroboration

3 If, however, notwithstanding such warning, the court think that they can accept the evidence of that particular accomplice, and feel that they can safely act on it without corroboration, the court are, by law, entitled to do so , provided the case does not fall within a class where corroboration is positively required by law, regardless of complicity of the witness.

4. Where on the other hand the court feel that they would not be prepared to act on the evidence of an accomplice witness, without other support, the court must then look for corroboration in independent evidence (as distinguished from that of another accomplice) which does not only support the story of the accomplice regarding the commission of the crime, but also connects or tends to connect the accused with the crime. And the judgment should show where did the court find such corroboration.

Appeal dismissed

Cases referred to :

Rex v. Baskerville 12 Cr. App. R. 81 ; (1916) 2 K.B. 658 ;

R. v. Davies 38 Cr. App. R. 11 ;

Lazaris Demetriou v. The Republic 1961 C.L.R. 309 ;

Simadhiakos v. The Police 1961 C.L.R. 64 ;

Vassiliades v. Vassiliades 18 C.L.R. 10 P.C.

Appeal against conviction and Sentence.

The appellant was convicted on the 4th December, 1961 at the Assize Court of Limassol (Cr. Case No. 7238/61) on one count of the offence of premeditated murder, contrary to ss.204 and 205 of the Criminal Code, Cap. 154 and article 7(2) of the Constitution and was sentenced by Michaelides, P.D.C., Limnatitis and Demetriou, D.J.J., to death.

R. R. Denktash for the appellant.

K. C. Talarides for the respondent :

Cur. adv. vult.

The facts sufficiently appear in the judgments delivered by VASSILIADES, J. and JOSEPHIDES, J.

WILSON, P. : The judgments of Mr. Justice Vassiliades and Mr. Justice Josephides will be read first.

VASSILIADES, J. : This is an appeal against conviction for murder, and sentence for death, by the Assize Court of Limassol, in December last.

The crime charged, was the premeditated murder of Kyriacos Savva Petrou, alias Filakismenos, of Lofou village, who was taken from his home the evening of the 22nd September, 1958, never to return again.

Three days later, on the 25th September, the victim's wife approaching a Police patrol at the village, enquired about her husband who, she said, had been taken away by the police. A few days later a dead body, in a state of decomposition, was found under the loose stones of a demolished dry-stone wall, in a vineyard, a short distance from the village. And on the 30th October, in that year, when another Police patrol was directed to that place by the missing man's mother-in-law, the police saw the remains of a fire, and some burnt bones in the ashes, near the demolished wall. As one of the Policemen was picking the bones out of the ashes, he found a locally made street-door key (P.W.20 at p. 145 H) which was later identified as that of the missing man's house. And about ten yards away, in that vineyard, the police found a piece of paper with two names on ; the missing man's and his father's-in-law. (P.W.20 at p. 145, E).

On this and other evidence before them, regarding the victim's disappearance and the finds in the vineyard, the trial-court found as a fact that the victim was "on the night of the 22nd September, 1958, lured out of his house, taken to locality Kontilia (the vineyard in question) and murdered there ; and that the remains found, were the remains of the deceased. (Judgment at p.210, 'B' of the record).

Learned counsel for the appellant, who argued the case before us with his usual force and ability, attempted to question the correctness of that finding. But there can be no doubt that on the evidence before them, it was open to the trial-court to make it by drawing judicial inferences from the established facts ; and we see no reason for disturbing that finding. In my opinion, it was, in the circumstances, the only reasonable conclusion to reach on the point.

That the crime was a premeditated murder, it was never disputed. The case for the appellant is that he had nothing to do with it. His complaint is that his enemies fabricated the evidence connecting him with the murder ; and that the Police, instead of conducting an impartial and unbiassed investigation, in order to discover the true culprits, they

adopted the fabricated evidence, and even built on it, for the purpose of pinning this crime upon the appellant.

In his additional grounds, filed about three months after his original notice of appeal, counsel for the appellant complains, moreover, that even the trial-court- quoting now from ground (1) :

> "wrongly prevented the defence from cross-examining witnesses as to existing enmity between certain parties and the appellant with a view to establishing that the main witnesses had been forced to give evidence;"

and quoting from ground (7) that —

> "the court consistently refused to allow the defence to refer to the fact that EOKA (the resistance organization) may have killed the deceased — or any suggestion that this was a made-up case".

And furthermore, ground 10 concludes the notice of appeal, with the complaint that —

> "in the air of prejudice which was created, it was impossible to conduct the case fairly, as all defence witnesses were frightened from attending and giving evidence".

These complaints were forcibly contested by counsel for the Republic who directed our attention to numerous parts of the record, to show clearly that there was no substance in such allegations. Nor was there any application to call or compel the attendance of any person to give evidence for the defence.

Without going into detail, it is sufficient to say at once, that as far as the trial is concerned, this Court is satisfied from the record before us, that the appellant has had a fair, patient and exhaustive trial. And that, even granting that bits of objectionable evidence may have reached the trial-court, these did not materially prejudice the position of the appellant ; nor did they affect at all, the final result of the case.

The substance in this appeal lies in the issue whether the findings of the trial-court connecting the appellant with the murder, are, as contended on his behalf, "unreasonable and cannot be supported, having regard to the evidence", as put in the original notice of appeal, filed by appellant's counsel

seven days after conviction. The central issue upon which the present appeal turns is the complicity of the appellant in the crime.

Both sides agree that the circumstances under which the victim was taken away from his house that fatal evening of the 22nd September, 1958, were truthfully stated by witness Psaltis (P.W.8) an independent and reliable witness, who accidentally found himself in the net of this crime and whose evidence was rightly accepted by the trial-court.

This witness (Psaltis, P.W.8) does not actually connect the appellant with the murder. But the value of his evidence lies in that, coming from a truthful, independent and reliable witness, it throws such light on the evidence of the accomplices, (the two persons in police uniforms who took the victim away from his house, and a third accomplice who gave evidence as P.W.4) as to establish beyond doubt that their evidence is not a fabricated story as contended by the appellant.

The two persons in police uniforms were unknown to witness Psaltis. Moreover they apparently did not know the victim or his house. The witness could not identify them ; all he could do was to describe them as one of a dark complexion, shorter than the other ; all he could say, was that the persons who came forward as witnesses 6 and 7, resembled those two in police uniform who took the victim away from his house on that fatal night.

The prosecution say the two persons in question were witnesses Antoniou (P.W.6) and Tilemachou (P.W.7). The appellant challenges this assertion. And the onus is entirely on the prosecution to establish their identity as a fact ; one of the main facts in the case.

Both of them come from the village of Ayia Phyla ; they are well known to one another, and they both knew the appellant prior to the crime. Witness 6, Antoniou, is an illiterate man of 27, working as a casual labourer and driver ; at the time of the crime he was 24. Witness 7, Tilemachou, is a younger man, now a taxi driver ; at the material time he was a casual labourer, 17 years of age.

Both these persons were in the witness-box for hours, and were subjected to long cross-examination by able counsel. Their evidence takes no less than 48 pages of the record. The

importance of their testimony is obvious ; and it must have been followed and watched with all due care.

The trial-court, dealing with them at p.9 of the judgment, (p. 209, 'F' of the record) say :—

> "Undoubtedly, P.W.4, 6 and 7 are accomplices, and having warned ourselves we have approached their evidence with the required caution".

From the material before them, the trial-court were satisfied beyond all doubt that the two persons in police uniform who took the victim from his house, were in fact witnesses 6 and 7, Antoniou and Tilemachou. And I do not think that the correctness of this finding, can, in the circumstances of this case, be seriously challenged.

These two persons together with witness 4, Andreas Neophytou stated the circumstances under which they took part in the commission of the crime. They stated how the murder was committed by the hooded man who directed the operation, whose presence was confirmed by witness Psaltis (P.W.8). The trial-court felt no doubt that these three witnesses were accomplices who actually lived the events of that night, culminating in the killing of the victim. The court had this to say about their testimony : (Page 209-4).

> "The evidence of these three witnesses as to the commission of this crime and the part they themselves played in it, is amply corroborated by the evidence of P.W.8, 9, 10,11, 13, 14, 15, 17, 20 and 21 whose evidence has already been summarised above. We have seen these witnesses giving their evidence in the box and have believed them...."

So long as the trial-court in considering the evidence of these accomplices, looked for corroboration, the further question arises whether the part of their evidence which connects the appellant with the crime, is, as a matter of law, sufficiently corroborated. And the onus of this issue is again upon the prosecution to discharge.

The trial-court refer to the evidence of no less than ten witnesses in the case, where they found the corroboration required. For the purposes of this appeal, I am inclined to the view that it is not necessary to go into all that detail. The evidence of two of those witnesses is, in my opinion sufficient to satisfy the requirements of the law regarding corroboration.

Witness Elias Kyriacou (P.W.5) a farmer, 46 years of age, a married man with three school-age children, and a vine producer, who well knew the appellant (living in the same village and being his "Koumbaros", page 57D. of the Record) stated the circumstances under which he drove in his Peugeot Van, appellant and witness 4, Andreas Neophytou (one of the three accomplices in the murder), from the village of Ypsonas to Ay. Phyla at their request, the evening of the 22nd September, 1958 ; and how they proceeded from Ay. Phyla to Lophou village (where the victim lived), taking with them from Ay. Phyla the other two accomplices, Antoniou and Tilemachou (P.W.6 and 7) who were unknown to witness Kyriacou (P.W.5) until that evening.

This, apparently careful and independent witness, remembers that trip, as it was the only occasion he had taken the two strangers (P.W.6 and 7) in his car, to Lophou. He gave the date of the trip as the 22nd September as he was going to Lophou that day to bring his family down to Ypsonas for the school opening on the 24th September ; and moreover because the following night, 23rd September he heard at Ypsonas that the victim had been taken from his house by the Police. (P.53 'C').

The trial-court accepted this witness's evidence, which, uncontradicted as it stands, puts the appellant together with the three accomplices on a trip to the victim's village, shortly before the crime.

Then there is the evidence of witness 9, Loukas Nikiforou, the lorry driver working for the appellant at the material time, and staying in his (appellant's) house, the night of the crime.

This witness stated that having gone to bed at about 8 o'clock that evening, he was awakened when appellant and the two accomplices Antoniou and Tilemachou (P.W.6 and 7) whom he well knew before, came into his room during the night. They were accommodated for the rest of that night in his room ; one of them on the same bed as the witness, and the other on an improvised bedding on the floor. "Estrosen tou hame ki' eppesen" as the record has it at p.109 'F'. (He prepared a bedding for him on the floor where he lay) would, in Greek, indicate a bedding "improvised" by someone else ; in this case apparently by the person offering the hospitality. At dawn the appellant took the two accomplices away, this witness (P.W.9) states ; and later that morning

when he got up and went to the coffee shop, the witness heard that the victim was taken away by two policemen.

Accepted by the trial-court as true, this evidence puts the appellant together with the accomplices in question, soon after the commission of the murder ; and corroborates their evidence in a very material particular, and in a manner connecting the appellant with the crime.

Where the trial-court is not prepared to act on the uncorroborated evidence of an accomplice, the nature and extent of the corroboration required to satisfy the rule of caution and legal safety in dealing with such evidence, has been considered and discussed in a great number of cases in the light of the judgment in *Baskerville's* case (12, Cr. App. R. p. 81) during the last forty-six years.

As it was said in that case, "the corroboration need not be direct evidence that the accused committed the crime; it is sufficient if it is merely circumstantial evidence of his connection with the crime". (*R.* v. *Baskerville, supra,* at p.91)

The law and practice in Cyprus regarding the evidence of accomplices and the corroboration required to support it, were considered by this Court, in the case of *Lazaris Demetriou,* v. *The Republic* 1961 C.L.R. 369.

Mr. Justice Josephides in his judgment, which was virtually the judgment of the Court, referred to *Davies'* case (1954) 38 Cr. App. R.p.11, where the House of Lords stated who are considered as "accomplices" under the English law ; and how is their evidence to be put to the jury, for the purposes of verdict, as regards corroboration.

O'Briain, P., in the course of his judgment in *Lazaris Demetriou's* case (*supra*) however, observed that :—

"In applying this part of English criminal law in Cyprus, where the court delivering the verdict consists of one or more professional lawyers, recognition must be given to the difference of circumstances".

Far from attempting to improve on these statements of the law, or to lay down principles regarding these matters, I think that the position in Cyprus, can be usefully summarized as follows :—

1. Where the trial-court is considering the evidence of

a witness who may, or may not, be an accomplice in the case, the court must first determine the question whether the witness is, in their view, an accomplice.

2 Where the witness is manifestly an accomplice, or the court considers him as such, the next question to be considered is whether, as a matter of credibility, the court are, or are not prepared to act on his evidence without corroboration. In this connection, the court are required by law, to remind themselves, that an accomplice is a tainted witness, whose evidence may be influenced by his connection with the crime ; and it is therefore dangerous to act on his testimony without corroboration.

3. If, however, notwithstanding such warning, the court think that they can accept the evidence of that particular accomplice, and feel that they can safely act on it without corroboration, the court are, by law, entitled to do so ; provided the case does not fall within a class where corroboration is positively required by law, regardless of complicity in the witness.

4. Where on the other hand the court feel that they would not be prepared to act on the evidence of an accomplice witness; without other support, the court must then look for corroboration in independent evidence (as distinguished from that of another accomplice) which does not only support the story of the accomplice regarding the commission of the crime, but also connects or tends to connect the accused with the crime. And the judgment should show where did the court find such corroboration.

As the view taken by the trial-court on all these matters, is very material in dealing with appeals against conviction, it is desirable and very helpful, when the judgment shows that the trial-court have considered and determined all the questions arising from the complicity of a witness in the case.

And as to what constitutes sufficient corroboration the judgment in *Baskerville's* case (*supra*) at p. 91, reads :

> "It would be in a high degree dangerous to attempt to formulate the kind of evidence which would be regarded as corroboration, except to say that corroborative evidence is evidence which shows, or tends to

show that the story of the accomplice that the accused committed the crime is true ; not merely that the crime has been comitted, but that it was committed by the accused".

It is my considered opinion that in Cyprus, now, when the Court of Appeal is vested with such wide powers in dealing with a case, it would be even more dangerous in present day conditions, than it was in England in 1916 when *Baskerville's* case was decided, to attempt to formulate any rule regarding the legal requirement of corroboration, other than the general statement that where the trial-court are not prepared to act on the uncorrobrated evidence of an accomplice, they must look for and find support for his story in independent evidence, not only regarding the part of his testimony concerning the commission of the crime, but also regarding the part connecting, or tending to connect, the accused with the crime.

Corroboration, as the word itself denotes, means "making stronger by more proof" ; "additional strength given to statement". (Royal English Dictionary, Revised Edn. 1938). In connection with evidence, it does not mean completing evidence, which, in itself, is incomplete ; or insufficient in extent ; or unacceptable. It means strengthening evidence which in itself is sufficient in extent, and is reasonably acceptable in quality, but is lacking in the degree of certainty required by the court's conscience for a safe conviction in a criminal case. It is here that the corroborative evidence comes into play to give the support required.

In this case, I take the view, without any hesitation whatever, that the evidence of the three accomplices is sufficiently corroborated, both as regards the commission of the murder and as regards the complicity of the appellant thereto. As to the former part, the evidence is overwhelming ; and as to the latter, the evidence of witnesses 5 and 9, to which I have already referred is, in my opinion sufficient to show that the testimony of the accomplices connecting the appellant, is substantially true.

The trial-court concluded their carefully considered judgment, with a finding (at p.120, G of the record) which reads :-

"We have also believed the evidence of P.W.4, 6 and 7

(the three accomplices) as to the part the accused played in the commission of this crime, and the corroborative evidence on the part of various witnesses".

On the evidence so accepted, the main ground of this appeal, i.e. "that the verdict is unreasonable and cannot be supported having regard to the evidence", fails and the appeal must therefore be dismissed.

JOSEPHIDES, J.: This is an appeal against conviction mainly on the ground that the verdict is unreasonable having regard to the evidence adduced. The appellant's other grounds are that inadmissible and prejudicial evidence was wrongfully admitted and that the trial court wrongly stopped the cross-examination of prosecution witnesses on certain matters.

The appellant was convicted at the Limassol Assizes of the premeditated murder of one Kyriacos Savva Petrou alias Filakismenos of Lofou. The murder was committed on the 22nd September, 1958, the investigations were mainly carried out in May, 1961, the appellant was charged in June, 1961, the Preliminary Inquiry was held in July, 1961, and the trial before the Assizes was held between the 13th November, and the 4th December, 1961, when the appellant was found guilty and sentenced to death.

The trial court found as a fact that the deceased was, on the night of the 22nd September, 1958, lured out of his house at Lofou, taken to a locality outside the village and murdered, and that the remains found later at the scene of the crime were the remains of the deceased. The Court then went on to consider whether the appellant did take part in the commission of the crime as related by the prosecution witnesses Andreas Neofytou (P.W.4), Georghios Antoniou (P.W.6) and Costakis Tilemachou (P.W.7).

Their evidence was, briefly, that under threat to their life they reluctantly helped the appellant, that he dressed up Antoniou and Tilemachou as policemen who went to the deceased's house, in company with Neofytou and the appellant, that they lured the deceased out of his house on the pretext that he was wanted by their officer, they blindfolded him and on the appellant's instructions they led him to a field outside the village where the appellant, who was masked and armed with a shotgun, revolver and an axe, delivered five to six blows on the head of the victim with the axe in the

presence of the aforesaid three witnesses. When the appellant began delivering the blows they tried to run away but he threatened to kill them and they came back. Antoniou protested but the appellant slapped him and said "He has wronged me and I have killed him. Say nothing now or later, or else I shall kill you". The appellant then made Antoniou and Tilemachou help him carry the deceased near a dry wall where he pushed some stones which fell down and covered the dead body of the victim. The appellant and the three witnesses then left.

The trial Judges rightly treated these three prosecution witnesses as accomplices and they warned themselves that corroboration of this evidence was necessary. Now, it is well settled that "evidence in corroboration must be independent testimony which affects the accused by connecting or tending to connect him with the crime. In other words, it must be evidence which implicates him, that is, which confirms in some material particular not ony the evidence that the crime has been committed, but also that the prisoner committed it........The nature of the corroboration will necessarily vary according to the particular circumstances of the offence charged". (*Rex v. Baskerville* (1916) 2 K.B. 658 at page 667).

As to the question whether the crime had been committed there was ample corroborative evidence, and this was conceded by the defence. But it was strenuously argued that there was no sufficient corroborative evidence implicating the appellant, that is confirming in some material particular that the appellant committed the crime. On this point the trial court found (at page 210D of the record) that the "most important corroboration" of the evidence of the three accomplices was that of one Sozos P. Tattaris (P.W.19). This witness stated in evidence that he was a friend of the appellant, and that 15 or 20 days after the disappearance of the deceased the appellant confessed to him (Tattaris) that he (appellant) had killed the deceased, and related to him the circumstances under which he committed the crime. In the course of his examination-in-chief this witness also stated "Later on, when we turned back, he (the appellant) said to me, 'I will kill his father-in-law as well, because only these two persons knew where I had the firearms hidden, and they took them away". ' (Page 140B). In the course of his re-examination this witness

stated "Q. Do you remember whether any attempt was made against Vakanas after that date?

A. Yes, there was an attempt against him". (Page 143B). Vakanas is the father-in-law of the deceased.

This witness (Tattaris) was a convicted prisoner who was brought up from prison to give his evidence before the trial court. He had been convicted of robbery and sentenced to 8 years' imprisonment on the 26th April, 1960. He had pleaded not guilty before the trial court, and evidence was heard. He gave evidence on oath denying the charge but he was eventually found guilty by the trial court. He made a statement to the police about this case on the 4th May, 1961, while in prison. The appellant is his koumbaros, that is, the god-father of one of his children. On being asked by the Court why he made a statement to the police against his koumbaros, Tattaris's explanation was that he wanted crime to stop.

Counsel for the appellant, in his able address before us, submitted with force that the evidence of this witness was prejudicial, irrelevant and inadmissible as regards the reference to the intended killing of, and attempt on, Vakanas, the deceased's father-in-law ; and he further submitted that the trial court should not have believed this witness.

Although on the question of credibility I feel that if I were the trial Judge I might entertain some doubt as to the evidence of this witness, still this is no ground for refusing to accept the verdict of the trial court. Perhaps, if the evidence of Tattaris stood by itself it might not be reliable corroborative evidence ; but, besides that, there was other independent testimony, direct or circumstantial, including the appellant's conduct in the circumstances of this case, which affected the appellant by tending to connect him with the crime, especially the evidence of Elias Kyriacou (P.W.5) and Loukas Nikiforou (P.W.9) whose evidence has been analysed by my brother Vassiliades J., and which I need not reiterate.

Matters of credibility were all matters which were put to the trial court, I have no doubt, with force by the learned counsel for the defence. Upon that, the trial court, having heard the whole evidence of this witness and the other witnesses in the case, came to the conclusion that they believed him ; and if they believed him they were entitled to convict.

As regards the part of Tattaris' evidence concerning the alleged statement by the appellant that he intended killing Vakanas and that an attempt was actually made on him (Vakanas), I am of the view that this evidence was irrelevant and prejudicial and that it was wrongly admitted, but considering its nature as well as the whole of the evidence adduced, I consider that the evidence so admitted cannot reasonably be said to have affected the minds of the trial Judges in arriving at their verdict, and that they must inevitably have come to the same conclusion if the evidence had not been admitted. I would, therefore, apply the proviso to section 145(1) (b) of the Criminal Procedure Law, Cap. 155, on the ground that no substantial miscarriage of justice has actually occurred.

I have also considered the desirability of rehearing the evidence of Tattaris under the provisions of section 25(3) of the Courts of Justice Law, 1960, although there was no formal application to do so in the notice of appeal. But, having regard to our judgment in the case of *Simadhiakos v. The Police* 1961 C.L.R. 64 and to the circumstances of this case, I do not think that this would be a proper case in which to exercise our discretion to rehear this witness.

With regard to the appellant's allegation in paragraph 10 of the additional grounds of appeal, to the effect that "in the air of prejudice which was created it was impossible to conduct the case fairly as all defence witnesses were frightened from attending and giving evidence", it should be observed that there is nothing on the record to show that the experienced counsel for the defence brought this to the notice of the trial court or asked for the help or protection of the court.

On the objection taken that the trial court stopped the cross-examination of prosecution witnesses on the question whether the E.O.K.A. organization may have killed the deceased, and whether this was a fabricated case by the appellant's enemies, having read the record of the evidence I am satisfied that the trial was conducted fairly and that all reasonable latitude was allowed in cross-examination of the prosecution witnesses on all material and relevant matters, and in my opinion this ground of objection is not well-founded. As. Lord Wright said in the Privy Council case of *Vassiliades v. Vassiliades* (reported in 18 C.L.R. 10 at page 22) : "Cross-examination is one of the most important processes for the elucidation of the facts of a case and all reasonable latitude

should be allowed, but the Judge has always a discretion as to how far it may go or how long it may continue. A fair and reasonable exercise of his discretion by the Judge will not generally be questioned by an Appellate Court".

After a careful and anxious consideration of the whole case I am of the view that there was evidence to go to the jury, that there has been no misdirection and that it cannot be said that the verdict is one which a reasonable jury could not arrive at. It is impossible for me to say, in the words of the statute, that the conviction was, having regard to the evidence adduced, unreasonable.

I would dismiss the appeal.

ZEKIA, J. : I agree to the dismissal of the appeal but with certain amount of hesitation, which is based chiefly on the fact that, in my opinion, the trial court has attached too much weight to the evidence of Tattaris. Part of the evidence of Tattaris as it has been explained in the judgment of my brother Judge Josephides was not admissible. I am further of the opinion that without the evidence of Tattaris there was no adequate corroborative evidence supporting that of the accomplices. The remaining corroborative evidence is not sufficient to connect the appellant with the crime itself. However, we have it on record that the trial court believed Tattaris' evidence and also attached a great weight to it. According to the English principles of law, credibility of witness as well as weight to be attached to evidence falls within the province of the trial court. Unless one is prepared to go to the extent of finding the verdict arrived at to be unreasonable, such verdict must stand. As I am not ready to say that the trial court went too far to the extent that having regard to the evidence adduced their verdict was unreasonable I must as a matter of law dismiss the appeal.

Subject to what I said I agree with the reasons stated in the judgment of my brother Judge Josephides in this case.

WILSON, P. : It is unnecessary for me to add anything in the way of additional reasons. It is apparent that my able brother Judges agree in the result and in the confirmation of the findings made by the Judges of the trial court. I agree in the result and I have nothing to add in the way of reasons for judgment.

The appeal is therefore dismissed.

Appeal dismissed.