

[BOURKE, C.J. and ZANNETIDES, J.]

FIKRI KEREM AND ANOTHER

Appellants,

v.

THE POLICE

Respondents.

(Criminal Appeal Nos. 2150 and 2151)

1958
March 17 & 21

FIKRI KE-
REM AND
ANOTHER
v.
THE POLICE

*Criminal Procedure—Appeal—Application for leave to appeal—Practice—
Notice—Separate Notice on Application by each accused—Criminal
Procedure Law, Cap. 14, Part. V.*

Observations by the Supreme Court on practice to be followed by
accused persons desiring to appeal.

Two or more persons cannot join in one notice of appeal or application for leave to appeal. The law requires a separate notice or application, as the case may be, by each person desiring to appeal and does not provide for a joinder. Whether appeals should appropriately be consolidated and heard together is a matter for consideration at the time of hearing by the Supreme Court ; but normally such consolidation is found to be the convenient course where persons have been tried and convicted together for the same offence at first instance.

Appeals against sentence.

The appellants, Fikri Kerem and Kerem Houssein, were convicted by the Special Court sitting in Limassol (Case No. 867/57) on the 3rd February, 1958, of the offence of unlawfully receiving property belonging to Her Majesty, contrary to section 3 (1) (b) of the Property of Her Majesty (Theft and Possession) Law, Cap. 28 and were sentenced by Morgan, Justice of the Special Court, to three years' imprisonment each. The appellants were also convicted by the same Court and on the same date (Case No. 868/57) of the offence of receiving stolen property contrary to section 300 (1) of the Criminal Code Law Cap. 13 and were sentenced to three years' imprisonment each, the sentences to run concurrently. They appealed against sentence and their appeals were dismissed.

R. Malyali for the appellants.

P.R. Grey for the Police.

Only the observations of the Supreme Court are set out.

BOURKE C.J.:... Our main object in giving written reasons in these matters was to call attention to a practice that is open to objection and of which they are an example. In each case there is a joint application for leave to appeal and in Appeal No. 2150 there is also a joint notice of appeal on a question of law filed in the names of the two appellants. There is no provision enabling the joinder of persons in this way when applying for leave to appeal or lodging a notice of appeal, and the fact that persons have been tried together before the Lower Court does not permit the joinder as appellants before this Court. The power rests with this Court for such reason as it sees fit, such as convenience, to consolidate appeals and hear them together: that is a matter for the discretion of the Court. The sections governing Criminal Appeals in Part V of the Criminal Procedure Law are quite clear; it is for the person entitled to appeal or applying for leave to appeal to deliver within the time fixed his notice of appeal or his application for leave to appeal and two or more persons cannot join in the one notice or application. The law requires a separate notice or application as the case may be by each person desiring to appeal and does not provide for a joinder. Whether appeals should appropriately be consolidated and heard together is a matter for consideration, whether on application or otherwise at the time of hearing, by this Court; but it may be said that normally such consolidation is found to be the convenient course where persons have been tried and convicted together for the same offence at first instance. The appeal of each person convicted would accordingly be given a separate number in the Register. It is to be hoped that legal practitioners will give careful attention to these requirements so that a practice, though by no means a general one, which these present appeals reflect, and for which there is no support in law, will now be discontinued.

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