

[TYSER, C.J. AND BERTRAM, J.]

TYSER, C.J.  
&  
BERTRAM,  
J.  
1909  
April 19

## POLICE

(ON THE PROSECUTION OF ERENOU NIKOLA)

v.

HAJI ANTONI HAJI IANNI.

CRIMINAL LAW—DEFAMATION—JUSTIFICATION—OTTOMAN PENAL CODE,  
ART. 213.

It is open to any person charged with defamation under Art. 213 of the Ottoman Penal Code to plead justification and to prove the truth of the words complained of.

It is not a correct interpretation of the article that the right to plead and prove justification is confined to cases of defamation of public functionaries.

This was an appeal from the Magisterial Court of Limassol.

The accused was convicted of defamation under Art. 213, having imputed infidelity to the prosecutrix in a letter to her husband.

*Chryssafinis* for the Appellant.

*Amirayan* for the Respondent.

The Court pointed out that there was no attempt to justify the allegation made by the accused.

*Chryssafinis*. The reason of this is that it has always been understood that in a prosecution for defamation, justification cannot be pleaded. The words, which in the Greek version are translated, "ἀποδεικνυμένου ότι τὰ ῥηθέντα ἦσαν ἀνύπαρκτα καὶ καθαρὰ σκολοφαντία" have always been taken as being confined to cases of the defamation of public functionaries.

The Court expressed the opinion that the interpretation of the article was a mistaken one.

Ultimately the accused withdrew his allegations and apologised to the Complainant.

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