

ASSIZE
COURT
OF
LIMASSOL

REX
v.
AGESILAOS
SOCRATI

It is not necessary of course that in such cases the whole of the deposition should be read. The Court may direct such parts to be read as it considers material.

The witness's deposition was accordingly put in to contradict him, and as being illiterate, he could not identify his mark, it was proved by the Registrar.

Prisoner convicted.

ASSIZE
COURT
OF
FAMA-
GUSTA
1909

March 10

(ASSIZE COURT OF FAMAGUSTA.)

[TYSER, C.J., BERTRAM, J., MACASKIE, P.D.C., MAKRIDES
AND VASSIF EFFENDI, J.J.]

REX

v.

KALLI HAJI STERKO AND ANOTHER.

CRIMINAL PROCEDURE—EVIDENCE—DYING DECLARATION—SENSE OF
IMPENDING DEATH.

In order to render a dying declaration admissible in evidence there must be positive evidence that the deceased made it under a sense of impending death.

It is not sufficient that the deceased's consciousness of impending death may be inferred from the nature of the injury from which he was suffering, and from giving him credit for ordinary intelligence as to its natural results.

A declaration was tendered in evidence as having been made by a man a short time after his throat had been frightfully cut, and about an hour before his death. There was no other evidence to show that the declaration was made under a sense of impending death.

HELD: That the declaration was not admissible.

The prisoners were charged with having murdered a man called Zeno at Davlos, several years before the trial of the case, by cutting his throat while he was sleeping in bed.

The Crown called a priest, who had had a conversation with the deceased shortly after the crime and about an hour before his death and sought to give in evidence a statement made to this priest.

The priest was not the first person whom the injured man saw after the crime, nor did it appear that the statement was made to him in his capacity as priest, or that there were any special circumstances which made it natural that he should make a statement to him with reference to the crime.

The deceased was at that time bleeding from the wound in his throat, from which he died.

Amirayan for the Crown.

Michaelides for the Defence.

The Court rejected the evidence, on the authority of *R. v. Beddingfield*, 14 Cox, 341. (See Archbold, 22nd Edition, p. 295), in which Cockburn, C.J., rejected the declaration of a woman made almost immediately after her throat had been frightfully cut, and a few minutes before her death, there being nothing beyond the nature of the wound to show that she was under the sense of impending death.

Prisoners acquitted.