

THE ATTORNEY-GENERAL OF THE REPUBLIC,  
*Appellant,*  
r.  
1. GEORGHIOS TH. CHRISTODOULIDES (Criminal  
Appeal No. 2673),  
2. DJAHID ASSIM, (Criminal Appeal No. 2672),  
*Respondents.*

THE ATTORNEY-  
GENERAL  
v.  
1. GEORGHIOS  
TH. CHRISTO-  
DOULIDES  
2. DJAHID  
ASSIM

(Consolidated Criminal Appeals  
Nos. 2673 and 2672)

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*Criminal Procedure—Trial in criminal cases—Failure of the prosecutor to appear at the trial—The Court shall acquit the accused unless for some good reason it thinks proper to adjourn the hearing—The Criminal Procedure Law, Cap. 155, section 89 (2).*

*Observations by the High Court as to the need that action should be taken so that the cases may be promptly and properly prosecuted.*

On the failure of the prosecution to appear at the trials of the respondents before the District Court of Nicosia on charges for motor traffic offences, the District Court in the circumstances appearing in the judgment of the High Court acquitted the accused. The Attorney-General appealed unsuccessfully against those acquittals, the High Court holding that the District Court on the facts of these two cases rightly acquitted the respondents under section 89 (2) of the Criminal Procedure Law, Cap. 155.

*Appeals dismissed.*

*Per curiam* : We do not desire to leave these appeals without adding a few words of comment. The predicament in which the prosecuting officer found himself in this case is one which has apparently occurred on previous occasions, and it indicates that some action ought to be taken so that the cases may be properly and promptly prosecuted when they come for trial. This may require greater co-operation between the two branches of the police, but I am quite certain that if they have difficulties with regard to procedure, they may confer with the President of the District Court to avoid the embarrassment which has occurred in this case. The Judges and the Court officials are always willing to co-operate in appropriate cases.

*Cr. Appeal No. 2672 :*

**Appeal against acquittal by the Attorney-General of the Republic.**

The respondent was acquitted on the 28th September, 1963 at the District Court of Nicosia (Cr. Case No. 9801/63)

1963  
October 24  
—  
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of two counts for the offences of : 1. Driving a motor vehicle carelessly, contrary to s. 6 of the Motor Vehicles and Road Traffic Law, Cap. 332 and ; 2. Failing to stop when entering a main road, contrary to regulations 58 (1) (n) and 66 of the Motor Vehicles Regulations, 1959, by Emin and Georghiou D.JJ. for want of prosecution under s. 89 (2) of the Cr. Procedure Law, Cap. 155.

*Appeal dismissed.*

*V. Aziz* for the appellant.

*Respondent* absent.

*Cr. Appeal No. 2673 :*

**Appeal against acquittal by the Attorney-General  
of the Republic.**

The respondent was acquitted on the 28th September, 1963, at the District Court of Nicosia, (Cr. Case No. 9962/63) of 3 counts for the offences of : 1. Driving a motor vehicle carelessly, contrary to s. 6 of the Motor Vehicles and Road Traffic Law, Cap. 332 ; 2. Failing to stop at the scene of an accident, contrary to regulations 61 (1) (2) and 66 of the Motor Vehicles Regulations 1959; and 3. Failing to report the accident to a police station or to a police officer, contrary to Regulations 61 (1) (2) and 66 of the Motor Vehicles Regulations, 1959, by Emin and Georghiou, D.JJ., for want of Prosecution under s. 89 (2) of the Cr. Procedure Law, Cap. 155.

*Appeal dismissed.*

*V. Aziz* for the appellant.

*L. Clerides* for the respondent.

The judgment of the Court was delivered by :

WILSON, P. : This is an appeal by the Attorney-General from the acquittal of the accused by the District Court of Nicosia on September 28, 1963.

The charges against respondent No. 1 were three in number : 1. Driving a motor vehicle carelessly contrary to section 6 of the Motor Vehicles and Road Traffic Law, Cap. 332 ; 2. Failing to stop at the scene of an accident contrary to Regulations 61 (1) (2) and 66 of the Motor Vehicles Regulations, 1959 ; and 3. Failing to report the accident to a police station or to a police officer contrary to Regulations 61 (1) (2) and 66 of the Motor Vehicles Regulations, 1959.

The prosecuting officer early in the morning found himself in the predicament of having cases before two mixed Courts which were sitting at the same time on the day in question. His presence was required for the continuation of a trial before Judges Evangelides and Izzet ; and, quite rightly, he appeared there. Unfortunately, it lasted longer than was expected and the officer was unable to be present before the Judges who had for trial the case in question.

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The record shows that the case was actually called on several times—and by 10.45 a.m. the prosecuting officer, without any fault on his part, was unable to appear. In the circumstances, the Court quite properly acquitted the accused as it was required to do under section 89 (2) of the Criminal Procedure Law, Cap. 155, which reads :

“ If, at the time appointed for the hearing of the case, the accused appears but the prosecutor fails to appear, the Court shall acquit the accused unless for some reason it thinks proper to adjourn the hearing of the case to some other day, upon such terms as it may think fit.”

Neither reasons advanced to us in argument, nor the two affidavits, which were filed on behalf of the appellant, showed that the Court acted wrongly in acquitting the accused.

For these reasons the appeal will be dismissed—in this case and also in Criminal Appeal No. 2672.

We do not desire to leave this appeal without adding a few words of comment. The predicament in which the prosecuting officer found himself in this case is one which has apparently occurred on previous occasions, and it indicates that some action ought to be taken so that the cases may be properly and promptly prosecuted when they come for trial. This may require greater co-operation between the two branches of the police, but I am quite certain that if they have difficulties with regard to procedure, they may confer with the President of the District Court to avoid the embarrassment which has occurred in this case. The Judges and the Court Officials are always willing to co-operate in appropriate cases.

*Appeals dismissed.*