

1968  
Dec. 16

[JOSEPHIDES, J.]

COSTAS  
PAPADOPOULLOS  
(EX PARTE)

IN THE MATTER OF AN APPLICATION BY COSTAS  
PAPADOPOULLOS OF XEROS FOR LEAVE TO APPLY  
FOR AN ORDER OF CERTIORARI

and

IN THE MATTER OF THE INQUISITION AND  
COMMITTAL FOR TRIAL, DATED THE  
29TH NOVEMBER, 1968, MADE BY JUDGE  
A. PANTELIDES, SITTING AS A CORONER

(Civil Application No. 10/68).

*Certiorari—Application for leave to apply for an order of certiorari—To remove into this Court (a) the charge of homicide preferred against the applicant by a Coroner in Nicosia; and (b) the committal of the applicant made by the same Coroner for trial on the charge of homicide as aforesaid before the Assize Court of Nicosia—Leave granted—Considerations applicable.*

*Coroner—Inquisition—Whether the Coroners Law, Cap. 153 confers any power on the Coroner to charge a person with homicide or to commit a person for trial before the Assizes.*

This is an application for leave to apply for an order of *certiorari* to remove into this Court and quash:-

- (a) The charge of homicide preferred under section 205 of the Criminal Code, Cap. 154 (as amended by Law No. 3 of 1962) by a Coroner in Nicosia against the present applicant; and
- (b) the committal of the aforesaid person made by the same Coroner for trial on the charge of homicide before the Assize Court of Nicosia sitting on the 17th November, 1969.

After reviewing the facts and in granting the application for leave as aforesaid the Court:-

*Held*, (1) the question which arises for consideration by me at this stage is whether there is a *prima facie* case made out sufficiently to justify the granting of leave to the applicant to move this Court in due course to issue an

order of *certiorari*. It is not necessary for me to go now into the matter thoroughly, but it is sufficient if on the face of the applicant's statement, and the affidavit in support, the Court is justified to grant such leave.

(2) In the first place there is no express provision in the Coroners Law, Cap. 153 conferring any power on the Coroner to commit a person for trial before the Assizes; and as at present advised, I am not aware of any other enactment conferring such power on a Coroner. The question whether the Coroner had power to charge a person with homicide need not be decided at this stage; it may be examined and determined at the hearing of the application.

(3) I am satisfied that this is a proper case in which to grant leave to the applicant to apply for an order of *certiorari*.

(4) Notice should be given to the persons who ought to have notice of the proceedings, and the applicant is to proceed with all reasonable speed to lodge his application.

*Leave to apply for an order  
of certiorari granted.*

#### **Application.**

Application for leave to apply for an order of *certiorari* to remove into the Supreme Court and quash (a) the charge of homicide preferred under s. 205 of the Criminal Code Cap. 154 (as amended) by a Coroner in Nicosia against the applicant and (b) the committal of the applicant made by the Coroner for trial on the charge of homicide, before the Assize Court of Nicosia.

*L. Clerides with S. Nikitas, for the applicant.*

The following judgment was delivered by:

JOSEPHIDES, J.:— This is an application for leave to apply for an order of *certiorari* to remove into this Court and quash—

(a) the charge of homicide preferred under section 205 of the Criminal Code, Cap. 154 (as amended), by a Coroner in Nicosia against Costas Papadopoulos, of Xeros (the present applicant); and

(b) the committal of the aforesaid person made by the Coroner for trial on the charge of homicide, before the Assize Court of Nicosia sitting on the 17th February, 1969.

Briefly the facts are as follows:

One Georghios Charalambous alias Italos, of Pendayia, died on the 2nd August, 1968, at the Pendayia Hospital. The learned Coroner, after hearing a number of witnesses, gave his verdict and certified it by an inquisition in writing under the provisions of section 25 of the Coroners Law, Cap. 153, on the 29th November, 1968. The Coroner found that the deceased Charalambous died as a result of cerebral compression, due to sub-dural haematoma caused to him by a blow or blows on the head whilst the deceased was on the 7th July, 1968, in the Xeros Police Station. The Coroner further found that such blow or blows had been inflicted by Sgt. Costas Papadopoulos (the present applicant), then in charge of the said police station.

After returning a verdict of "death due to homicide", the Coroner committed the applicant for trial before the Assize Court of Nicosia and bound over the witnesses who had given evidence at the inquest to appear before such court. Before committing the applicant to the Assize Court, the Coroner charged him with the offence of homicide contrary to section 205 of the Criminal Code (as amended). He further directed that the applicant be apprehended immediately and kept in custody pending his trial before the Assizes; but he left the question of bail open to be determined later by him. Learned counsel for the applicant informed this Court that bail was, in fact, subsequently granted by the Coroner.

The question which arises for consideration by me at this stage is whether there is a *prima facie* case made out sufficiently to justify the granting of leave to the applicant to move this Court in due course to issue an order of certiorari. It is not necessary for me to go now into the matter thoroughly, but it is sufficient if on the face of the applicant's statement, and the affidavits in support, the Court is justified to grant such leave. In the first place there is no express provision in the Coroners Law, Cap. 153, conferring any power on the Coroner to commit a person for trial before the Assizes; and, as at present advised, I am not aware of any

other enactment conferring such power on a Coroner. I need not decide at this stage whether the Coroner had power to charge a person with homicide. That question may be examined and determined at the hearing of the application.

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Having considered the matter, after hearing argument from learned counsel, I am satisfied that this is a proper case in which to *grant leave* to the applicant to apply for an order of certiorari.

As regards the procedure to be followed, I need only say that notice should be given to the persons who ought to have notice of the proceedings, and the applicant is to proceed with all reasonable speed to prepare and lodge his application.

*Leave to apply for an order  
of Certiorari granted.*