

1969
April 22

[VASSILIADES, P., TRIANTAFYLLOIDES, JOSEPHIDES, JJ.]

ARISTIDES
KEFALAS
v.
THE POLICE

ARISTIDES KEFALAS,

Appellant,

v.

THE POLICE,

Respondents.

(*Criminal Appeal No. 3088*).

Criminal Procedure—Trial in criminal cases—Adjournment—Appeal against adjournment—Matter within the discretion of the trial Court—The Criminal Procedure Law, Cap. 155, sections 48 and 157(1)—Frivolous and groundless appeal—Appeal dismissed.

Criminal Procedure—Trial in criminal cases—Costs—Provisions for costs in section 151(1) of the Criminal Procedure Law, Cap. 155—They may have to be made use of to discourage frivolous and groundless appeals.

Appeal—Appeal in criminal cases—Frivolous and groundless appeals—See above.

Trial in Criminal Cases—Adjournment—Costs—See above.

Adjournment—Adjournment in criminal cases—Matter of discretion—See above.

Costs—Section 151(1) of the Criminal Procedure Law, Cap. 155—See above.

The facts sufficiently appear in the judgment of the Court dismissing this appeal as frivolous and groundless.

Appeal against adjournment.

Appeal by Aristides Kefalas against an adjournment of the criminal proceeding against him for knowingly living wholly or in part on the earnings of prostitution contrary to section 146 (1) (a) and 35 of the Criminal Code, Cap. 154.

Appellant, in person.

S. Z. Nicolaidis, Counsel of the Republic, for the respondent.

The judgment of the Court was delivered by :—

VASSILIADES, P.: There is no merit in this appeal. It is taken against an adjournment of the criminal proceedings against the appellant for knowingly living wholly or in part on the earnings of prostitution, contrary to section 146(1)(a)

and 35 of the Criminal Code, Cap. 154. The appellant pleaded not guilty to the charge on August 26th, 1968, and the case was adjourned for hearing on the 17th December, 1968 ; the appellant was allowed bail in the sum of £200. On December 17, the trial Judge adjourned the proceedings for want time, the accused continuing on the same bail.

1969
April 22
—
ARISTIDES
KEFALAS
v.
THE POLICE

On the next appearance on February 4, 1969, the prosecution applied for an adjournment on the ground that one of the main prosecution witnesses was out of the island. Counsel for the appellant stated that he had no objection to the adjournment and the case was adjourned for March 4, 1969. On that day another witness was not available at 10 a.m. and the prosecution applied for a warrant of arrest and an adjournment of the case because of the witness's absence. Counsel for the appellant objected to the adjournment.

The trial Judge, taking into account all relevant matters granted an adjournment to the 15th May, 1969 ; and directed the issue of a warrant for the arrest of the absent witness. About half-an-hour later, when the accused and the other witnesses had left the Court, the absent witness appeared and stated that he was delayed at the Hospital for an X-ray. The present appeal was taken against the Judge's decision to grant the adjournment.

The matter was clearly within the discretionary powers of the Judge under sections 48 and 157(1) of the Criminal Procedure Law, Cap. 155. And in the circumstances we think that the Judge properly exercised such powers. The appellant did not show any cause against the adjournment which was apparently necessary in the interest of justice. We see no reason for interfering with the Judge's decision ; and the appeal must, therefore, be dismissed.

We have considered whether, in these circumstances, we should not proceed to make an order for costs against the appellant under the provisions of section 151(1) of the Criminal Procedure Law, which are obviously intended to discourage frivolous and groundless appeals. In practice such orders are rarely made ; but it is not without difficulty that we have reached the conclusion that on this occasion we should confine ourselves to a warning that the provisions for the costs may have to be made use of to discourage such abuse of process. Speaking for myself, I would add that I am beginning to lose faith in simple warnings. In this case, however, we decided to make no order for costs.

Appeal dismissed.