

YIANNAKIS PAPACLEOVOULOU AND ANOTHER,

Appellants,

YIANNAKIS
PAPACLEOVOULOU
AND ANOTHER

v.

v.
THE POLICE

THE POLICE,

Respondents.

(*Criminal Appeals Nos. 3577–3578*).

Criminal Procedure—Remand order—Discretion of the Court below—Principles upon which the Court of Appeal interferes with such discretion—Sufficient evidence entitling the Judge to decide that the Appellants were reasonably suspected of being implicated in the offences in respect of which the order for remand in police custody was issued—Judge not called upon at such stage to make a finding as to whether he believes or not the evidence—He is only examining whether there exist grounds for reasonable suspicion as aforesaid—Successive remands—Appeals under Article 11.6 of the Constitution—Appeals dismissed.

Remand order in police custody—Concerning persons suspected of being implicated in the commission of the offences—Appeal to the Supreme Court under Article 11.6 of the Constitution—Discretion etc.—See supra.

These are two appeals under Article 11.6 of the Constitution by persons who were remanded in police custody as being reasonably suspected to have committed the offences in question. It was argued by counsel for the Appellants that the Judge who issued the orders complained of did exercise wrongly his relevant discretion. The facts sufficiently appear in the judgment of the Court dismissing both appeals and stating the principles upon which the Appellate Court would interfere with the exercise of such discretion.

Cases referred to:

Hasip v. The Police, 1964 C.L.R. 48, at p. 64;

Tsirides v. The Police (1973) 2 C.L.R. 204.

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YIANNAKIS
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v.
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Appeal against remand order.

Appeal by Yiannakis Papacleovoulou and Another against the order of the District Court of Nicosia (Ioannides, D.J.) made on the 13th June, 1974 whereby Appellants were remanded in Police custody for eight days in connection with investigation by the Police concerning the commission of offences in respect of which they have been arrested as suspects.

A. *Eftychiou*, for the Appellants.

N. *Charalambous*, Counsel of the Republic, for the Respondents.

The judgment of the Court was delivered by:—

TRIANTAFYLLIDES, P.: These are two appeals by persons who were remanded in custody on June 13, 1974, in relation to related offences.

They both complain that the remand orders were the result of a wrong exercise of the relevant discretionary powers of the Judge who made them.

The second Appellant, Georghios Papacosta, has—according to what his counsel told us—been today remanded in custody for a further period of six days and, as such remand has already been challenged by a new appeal, the Appellant wishes to withdraw the present appeal.

In relation to the appeal of the first Appellant, Yiannakis Papacleovoulou, we have approached the matter before us in the light of the principle set out in, *inter alia*, *Hasip v. The Police*, 1964 C.L.R. 48, 64, namely that, as a decision as to whether or not to grant an order for remand in custody is the product of the exercise of discretionary powers, we can only interfere with it if we are satisfied that the Judge's discretion was not exercised judicially on the particular occasion; and we have, also, borne in mind what has been stated in the recent similar case of *Tsirides v. The Police* (1973) 2 C.L.R. 204.

As it appears from the record before us, there was given evidence by the police before the Court below to the effect that the first Appellant has made an oral statement to the police disclosing that he is a member of the "EOKA B" organization, which has been declared to be an illegal organization; also, that he has, together with another person, transported by

car arms, which were stolen from a military camp at Yeroskipou, and hidden them in a vineyard where they were found by the police. We regard such evidence, even though it was denied on oath by the Appellant, as sufficient to entitle the Judge to decide that there existed reasonable suspicion that this Appellant was implicated in the offences in respect of which his remand was applied for; and, therefore, we find no reason to interfere with the decision of the Judge. The Judge was not called upon, at that stage, to make a definite finding as to whether or not he believed the police evidence or that of the Appellant, because he was examining only whether there existed grounds for reasonable suspicion, on the basis of which he should remand the Appellant in custody.

This was the third remand in custody—each for a period of eight days—which had been applied for, and obtained, by the police; and it is correct that Judges should carefully examine whether there exist sufficient reasons for granting successively one remand order after another in respect of the same offence; indeed, the police should bear in mind that when they wish to keep a suspect in custody pending their investigations such investigations should be completed as soon as reasonably possible in the circumstances; but the offences concerned in this case are extremely serious and, moreover, there does not exist the prospect of the police requiring to keep the Appellant in custody much longer, because we have been informed today by counsel for the Respondents that it is intended to apply for a further remand in custody for a period of only three or four days.

In the result both these appeals are dismissed; one having been withdrawn, and the other having failed.

Appeals dismissed.

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