[CY] Media Publicity, a Reason for the Dismissal of Charges of Ill-treatment

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The way in which media covered a case of ill-treatment of two students by the police was one of the reasons that led the Assize Court of Nicosia to dismiss charges against the suspects as this interfered with the course of justice in many ways. Negative publicity, abuse of the suspects, violations of their rights and of the principle of a fair trial by the media were some of the findings mentioned in the verdict. The decision caused a public outcry and criticism of the courts, as well as a clash between the Attorney General and the Court.

The case is based on an incident between two students and a dozen policemen, members of the special forces and anti-drugs squad on the night of 20 December 2005. It was initially reported that the two students refused and resisted routine identity control by the police. They were also charged by policemen with assault and causing injuries. The case took a different dimension in March 2006, when scenes from an amateur video went public on a newspaper's website and were subsequently screened on TV channels. The ten-minute video showed several servicemen savagely beating and ill-treating the young men while they were handcuffed, which caused indignation and an outcry against the police force. The author of the video had handed it to the Attorney General on condition that his identity would not be disclosed. All the above led to 11 servicemen being brought before the Assize Court to face several charges, including assault and ill-treatment. Among the main reasons for the dismissal of the case mentioned by the Court were the procedure followed by the police force to identify the servicemen involved in or present at the incident and the procedure followed that led to the recognition of the suspects by the two students.

In its decision, the three-judge Court found the accused not guilty for several reasons, including the following:

- The testimony based on an amateur video providing the crucial evidence of the incident was not accepted because the non-disclosure of the identity of its author deprived the culprits of the right to ask questions about its content and other issues. This right was considered a basic requirement for a fair trial.

- The negative publicity in the media caused a number of further problems that interfered with the prerequisites for a fair trial. More specifically, the treatment of

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the suspects, repeatedly branded as 'aggressors' and 'sadists', described in such a negative way, violated the principle of the presumption of innocence. These descriptions, along with statements by officials, politicians and others, and the apology expressed to the students' parents by the Chief of the Police Force, along with the disclosure of the suspects' names in the (published) report of the ombudsman, all created the conviction that they were guilty.

According to the Court, public opinion was in this way shaped in a definite and irreversible way, creating the strong belief that the suspects had committed the tort of ill-treatment; this verdict was reached in the absence of the competent State bodies. The course and the result of the trial were determined in advance, resulting in defiance of the rules of law and contempt of court, the three justices noted.

All the above, concluded the Assize Court, were additional reasons for the dismissal of this case. It 'constituted a serious interference with the work of justice' that cancelled the requirements for a fair trial, while it also constituted an appropriation of the judicial power

The decision is subject to appeal before the Supreme Court.

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http://www.cylaw.org/17179-06.htm

Assize Court, Case 17179/06, Republic of Cyprus v. A. Efstathiou & others, decision of 19 March 2009

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