Neutral Citation [2015] IEHC 688

THE HIGH COURT

JUDICIAL REVIEW

[2014 No. 420 JR]

BETWEEN

THE DIRECTOR OF PUBLIC PROSECUTIONS

APPLICANT

AND

DISTRICT JUDGE JOHN O'NEILL

RESPONDENT

AND

GARUDA LIMITED

NOTICE PARTY

JUDGMENT of Mr. Justice Noonan delivered the 11th day of November 2015

Introduction

1. In these proceedings, the applicant ("the DPP") seeks:

> (a) An order of *certiorari* quashing the decision of the respondent ("the District Judge") declining jurisdiction in respect of three summonses issued against the notice party ("Garuda"), such decision having been made on the 16th of May 2014;
>
> (b) An order of *mandamus* directing the District Judge to assume jurisdiction and deal with the proceedings the subject matter of the said summonses.

Background Facts

2. On the 10th of December, 2013, an application was made by the Revenue Solicitor for the issue of three summonses pursuant to s. 1 of the Courts (No. 3) Act 1986, as amended by s. 49 of the Civil Liability and Courts Act 2004 and s. 19 of the Civil Law (Miscellaneous Provisions) Act 2008 charging Garuda, a limited liability company, with three offences contrary to the Taxes Consolidation Act 1997. The summonses were issued on the same date and sent to An Garda Síochána for service on Garuda. The summonses were returnable before the Dublin Metropolitan District Court on the 29th of January, 2014. On the date the summonses were issued, Garuda had a registered office at The Gables, Torquay Road, Foxrock, Dublin 18.

3. Thereafter, a companies form B2 was signed by Garuda's secretary, Michael Lowry, dated the 31st of December, 2013, changing the registered office from the said Dublin address to Abbey Road, Thurles, County Tipperary. This form was received by the Companies Registration Office on the 10th of January, 2014. The effective date of change of the registered office was the 13th of January, 2014.

4. On the 16th of January, 2014, the summonses were served by a member of An Garda Síochána at the Dublin address where they were accepted by a person at that address. On the 17th of January, 2014, Garuda's solicitors wrote to the Revenue Solicitor advising that the registered office of the company had changed to the Tipperary address and they assumed that a fresh summons would now be issued returnable to the appropriate District Court area.

5. The Revenue Solicitor replied on the 24th of January, 2014, stating that service of the summons had been accepted on behalf of Garuda and the DPP reserved the right to ask the District Court to deem the service good.

6. The summonses came before the District Judge sitting at District Court Number 8, Four Courts, Dublin 7 on the 29th of January, 2014, when the matter was adjourned for legal argument. That subsequently took place on the 16th of April, 2014. Two of the summonses concerned offences allegedly committed in 2003 in County Tipperary and the third concerned an offence allegedly committed in 2007 in Dublin.

7. At the hearing before the District Judge, Garuda argued that as it was not resident within the Dublin Metropolitan District when the summonses first came before him on the 29th of January, 2014, he had no jurisdiction to hear the two summonses concerning the 2003 offences as they were allegedly committed in Tipperary. The DPP argued that as Garuda's registered office was in Dublin when the summonses were issued, the District Judge had jurisdiction to hear the matter and in any event, the summons in respect of the 2007 offence related to an offence allegedly committed in Dublin.

8. On the 16th of May, 2014, the District Judge delivered his judgment and held that the relevant date for determining Garuda's "residence" was the date of the complaint before the District Court being the 29th of January, 2014, and not the date of issue of the summons. Accordingly he concluded that he had no jurisdiction to hear the matter. He does not appear to have expressly dealt with the 2007 summons or given reasons as to why he considered himself not to have jurisdiction to deal with it.

Relevant Statutory Provisions

9. Section 10 para. 4 of the Petty Sessions (Ireland) Act 1851 provides:

"In all cases of summary jurisdiction the complaint shall be made…. within six months from the time when the cause of complaint shall have arisen, but not otherwise:"

10. Section 79 of the Courts of Justice Act 1924, as amended by s. 41 of the Courts and Courts Officers Act 1995, s. 5 of the Criminal Justice (Miscellaneous Provisions) Act 1997 and s. 22 of the Criminal Justice Act 1999, insofar as relevant to this case, provides as follows:

"[P]rovided that the jurisdictions by this Act vested in and transferred to the District Court shall be exercised by the justices severally as follows:-…

In criminal cases, by a Justice for the time being assigned to the District wherein the crime has been committed or the accused has been arrested or resides;"

11. Section 1 of the Courts (No. 3) Act 1986 and substituted by s. 49 of the Civil Liability and Courts Act 2004 provides as follows:

"1.— (1) Proceedings in the District Court in respect of an offence may be commenced by the issuing, as a matter of administrative procedure, of a document (in this section referred to as a 'summons') to the prosecutor by the appropriate office.

(2) The issue of a summons may, in addition to being effected by any method by which the issue of a summons could be effected immediately before the enactment of section 49 of the Act of 2004, be effected by transmitting it by electronic means to the person who applied for it or a person acting on his or her behalf.

(3) An application for the issue of a summons may be made to the appropriate office by or on behalf of the Attorney General, the Director of Public Prosecutions, a member of the Garda Síochána or any person authorised by or under an enactment to bring and prosecute proceedings for the offence concerned.

(4) The making of an application referred to in subsection (3) of this section may, in addition to being effected by any method by which the making of an application for a summons could be effected immediately before the enactment of section 49 of the Act of 2004, be effected by transmitting it to the appropriate office by electronic means.

(5) Where an application for the issue of a summons is made to—

(a) an office referred to in paragraph (a) of the definition of 'appropriate office' in this section, the summons may, instead of its being issued by that office, be issued by an office referred to in paragraph (b) of that definition, or

(b) an office referred to in paragraph (b) of that definition, the summons may, instead of its being issued by that office, be issued by an office referred to in paragraph (a) of that definition.

(6) A summons shall—

(a) specify the name of the person who applied for the issue of the summons,

(b) specify the application date as respects the summons,

(c) state shortly and in ordinary language particulars of the alleged offence, the name of the person alleged to have committed the offence and the address (if known) at which he or she ordinarily resides,

(d) notify that person that he or she will be accused of that offence at a sitting of the District Court specified by reference to its date and location and, insofar as is practicable, its time, and

(e) specify the name of an appropriate District Court clerk.

(7) For the avoidance of doubt, particulars of the penalty to which a person guilty of the offence concerned would be liable are not required to be stated in a summons.

(8) Where the issue of a summons is effected in accordance with subsection (2) of this section, references to an original summons in any enactment relating to the service of summonses (whether the references employ the word 'summons' or the expression 'original document') shall be construed as references to a true copy of the summons.

(9) In any proceedings—

(a) a document purporting to be a summons shall be deemed to be a summons duly applied for and issued, and

(b) the date specified in the summons as being the application date shall be deemed to be such date,

unless the contrary is shown.

(10) In any proceedings in which the issue of a summons was effected in accordance with subsection (2) of this section, a true copy of the summons shall, unless the contrary is shown, be evidence of the summons concerned.

(11) A summons duly issued under this Act shall be deemed for all purposes to be a summons duly issued pursuant to the law in force immediately before the passing of this Act.

(12) Any provision made by or under any enactment passed before the passing of this Act relating to the time for making a complaint in relation to an offence shall apply, with any necessary modifications, in relation to an application under subsection (3) of this section.

(13) The procedures provided for in this section in relation to applications for, and the issue of, summonses are

without prejudice to any other procedures in force immediately before the passing of this Act whereby proceedings in respect of an offence can be commenced and, accordingly, any of those other procedures may be adopted, where appropriate, as if this Act had not been passed.

(14) In this section—

'Act of 2004' means the Civil Liability and Courts Act 2004;

'application date' means, in relation to a summons, the date on which the application for the issue of the summons was received by the appropriate office;

'appropriate District Court clerk' means, in relation to a summons, a District Court clerk assigned to any District Court area in the district court district in which a judge of the District Court has jurisdiction in relation to the offence to which the summons relates;

'appropriate office' means, in relation to a summons—

(a) the office of any District Court clerk assigned to any district court area in the district court district in which a judge of the District Court has jurisdiction in relation to the offence to which the summons relates, or

(b) any office of the Courts Service designated by the Courts Service for the purpose of receiving applications referred to in subsection (3) of this section;

'prosecutor' includes a person acting on behalf of the prosecutor;

'summons' has the meaning assigned to it by subsection (1);

'true copy' means, in relation to a summons the issue of which was effected in accordance with subsection (2), a document that purports to be a reproduction in writing of the summons certified by the prosecutor as being a true copy thereof."

12. Order 13 Rule 1 of the District Court Rules 1997, as substituted by r. 3 (Criminal Justice Act 2007) Rules 2008 (S.I. No. 41 of 2008) provides as follows:-

"1. Criminal proceedings shall be brought, heard and determined—

(a) in the court area wherein the offence charged or, if more than one offence is stated to have been committed within a Judge's district, any one of such offences is stated to have been committed; or

(b) in criminal cases where no offence has been charged, in the court area wherein the offence is stated to have been committed; or

(c) in the court area wherein the accused has been arrested; or

(d) in the court area wherein the accused resides; or

(e) in the court area specified by order made pursuant to the provisions of section 15 of the Courts Act 1971 ; or

(f) in a case to which section 79A(1) of the Courts of Justice Act 1924 (inserted by section 178 of the Criminal Justice Act 2006) applies, in any court area within any of the districts referred to in that sub-section, or

(g) in the case of proceedings under any provision of the Companies Acts referred to in section 240A of the Companies Act 1963 against a company or an officer of a company, in the court area in which the registered office of the company is situated or in any other court area permitted by that section."

The Arguments

13. Ms. Sunniva McDonagh S.C., on behalf of the DPP, said it was common case that a company could be said to reside at its registered office. She submitted that the relevant time for residence is the time when the application for the summons is made. This is the date upon which the proceedings commence by virtue of s. 1 (1) of the 1986 Act. There was no difference between the "commencement" of proceedings and the "institution" of proceedings and she relied on the judgment of Barron J. in *DPP v. Howard (*Unreported, High Court, 27th November 1989) in that regard. Whilst the decision in *Murray v. McArdle* (No. 2) [1999] 4 I.R. 383 suggests that a complaint for the purpose of the Petty Sessions (Ireland) Act 1851 is made at the point when the summons comes before the District Court, this does not determine the issue of whether the District Court's jurisdiction can be grounded on the residence of the accused at the time the application for the summons is made.

14. In this regard it was contended that O. 13 of the District Court Rules provides that proceedings shall be "brought, heard and determined" *inter alia*, in the court area wherein the accused resides. The concept of bringing proceedings necessarily includes the process of instituting or commencing those proceedings. It must therefore follow that it is the date of residence of the accused at the date of issue of the summons, being the commencement of the proceedings, that is material. Were it otherwise, it would lead to an absurdity where the accused could frustrate a prosecution by changing his address after the date of issue of the summons but before the matter came before the District Court. She relied in that regard on the judgment of the Supreme Court in *DPP v. Nolan* [1990] 2 I.R. 526.

15. Mr. Feichin McDonagh S.C., for Garuda, submitted that it has always been the law that the jurisdiction of the District Court is conferred by the making of a complaint and that has not been changed by the 1986 Act. Consequently it is the residence of the accused at the date of the making of a complaint that is material in every case. Since Garuda was not "resident" in Dublin at the date of the complaint in this case, the District Judge had no jurisdiction to hear the matter. He relied on the judgment of McDermott J. in *O'Malley v. District Judge Paul Kelly and Anor* [2014] IEHC 524 citing with approval the earlier judgment of Kingsmill Moore J. in *Attorney General (McDonnell) v. Higgins* [1964] I.R. 374. He also placed significant reliance on the judgment of Kelly J. in *Murray v. McArdle* (No. 2) [1999] 4 I.R. 383 to the effect that the complaint which founds jurisdiction is not made at the date of the application

for the issue of a summons but rather when the matter comes on for hearing before the District Judge.

Discussion

16. Garuda places reliance on the following passage from the judgment of McDermott J. in *O'Malley* (at para. 18):-

> "As noted by Kingsmill Moore J. in *Attorney General (McDonnell) v. Higgins* [1964] I.R. 374 at p. 390:-
>
> > 'That an information or complaint to an authorised person is the very foundation of the jurisdiction hardly needs authority, but I may refer to *Paley on Convictions* (1st Ed., 1814) at p. 14:-
> >
> > > 'It is requisite in all summary proceedings that there should be an information or complaint which is the basis of all subsequent proceedings and without which it seems that the justice is not authorised in intermeddling.'
> >
> > *Hutton on Convictions* (1st Ed., 1835) has as the first words in his treatise:-
> >
> > > 'In exercising the power of convicting summarily any person charged with having infringed the provisions of a statute the initiative proceeding is that the party complaining must present a statement of the offence complained of to a justice authorised to take such an information.'
> >
> > To the same effect are Nun & Walsh, *Justice of the Peace* (2nd Ed., 1844) at p. 472; Molloy, *Justice of the Peace* (1890) at p. 169; O'Connor, *Justice of the Peace* (2nd Ed., 1915) Vol. 1 at p. 227.
> >
> > Neither summons nor warrant to arrest, consequent on the information, confer jurisdiction. They are merely processes to compel the attendance of the person accused of the offence: *R. (UDC of Athy) v. Justices of Kildare: R v. Justices of Cork'* "

17. What arose for consideration in O'Malley was whether the trial of a charge in one district could be transferred to a different district on the basis that the judge assigned to that district may assume jurisdiction in the case, because the accused had moved his residence to a District Court area within that district. The notice party was unable to identify any statutory provision that would permit the transfer of charges from one district to another for hearing and determination. Consequently the convictions were quashed. In considering the issue of jurisdiction, McDermott J. discussed the effect of r. 3 of the District Court (Criminal Justice Act 2007) Rules 2008 (S.I. No. 41 2008) substituting the new O. 13 r. 1 of the District Court Rules 1997, referred to above, in the following terms at para. 16:-

> "The notice party has been unable to identify any statutory provision empowering the transfer of charges from one district to another for hearing and determination. Where it is clear that the jurisdictional criteria for the hearing and determination of a summary offence may give rise to simultaneous potential venues in which the proceedings may be initiated, namely the place where the offence is committed, the place where the accused is arrested, or the accused's place of residence, the prosecution must choose a venue for the charging of the accused. Rule 3 defines the appropriate venue in which the charge may be laid and prosecuted. The charge 'shall be brought, heard and determined' in one of those venues. If the prosecution chooses an appropriate District Court area within a district in accordance with these jurisdictional rules, the jurisdiction of that court has been invoked and the charge must be 'heard and determined' in that District Court area. The court is satisfied that for this purpose the word 'brought' means 'initiated'."

18. Accordingly, the court recognised that the jurisdiction of the District Judge for the relevant District Court area was invoked by "bringing" or "initiating" the relevant proceedings. It seems to me that no material distinction can be drawn between the "bringing" of criminal proceedings within the meaning of O. 13 and the "commencement" of such proceedings within the meaning of s. 1 (1) of the 1986 Act.

19. In *DPP v. Nolan* [1990] 2 I.R. 526, the defendant appeared before the District Court on the 2nd of April, 1987, charged with offences alleged to have been committed on the 6th of September, 1986, more than six months earlier. The summonses on foot of which he appeared were issued on the 27th of January, 1987, within six months. The District Justice held that no complaint had been made within six months of the alleged offences as required by s. 10 para. 4 of the Petty Sessions (Ireland) Act 1851 and struck out the summonses. He stated a case for the opinion of the High Court as to whether he had been correct in law in doing so. In the High Court, Hamilton P. held that the application for the issue of the summons did not constitute the making of a complaint within the meaning of the 1851 Act and that the 1986 Act provided an additional and alternative method of invoking the jurisdiction of the District Court which did not require the making of a complaint. Accordingly he determined that the District Justice was wrong in law in deciding that he had no jurisdiction to hear and determine the matter. In the course of his judgment, he said at p. 536-537:-

> "It is quite clear that the learned District Justice did not consider the application for the issue of the summonses in this case as 'the making of a complaint' within the meaning of s. 10, para. 4 of the Petty Sessions (Ireland) Act, 1851, and the first question I have to consider is whether he was correct in so doing….
>
> A complaint within the meaning of s. 10, para. 4 of the Petty Sessions (Ireland) Act, 1951, can be made either with or without oath and in writing or not.
>
> However, to constitute a complaint within the meaning of s. 10, para. 4 of the said Act it must, as was decided in *The State (Clarke) v. District Justice Roche* [1986] I.R. 619 be communicated to a person duly authorised to receive it, viz. the District Justice, a Peace Commissioner or the District Court clerk.
>
> Consequently, I am satisfied that the application for the issue of a summons did not constitute the making of a complaint in accordance with s. 10 of the Petty Sessions (Ireland) Act, 1851, until it was communicated to the learned District Justice on the 2nd April, 1987, because prior thereto it was not made to a District Justice, a Peace Commissioner or the District Court clerk. However, the Courts (No. 3) Act, 1986, provides a secondary or alternative procedure for the issuing of summonses in respect of offences and the hearing of such offences in the District Court.
>
> This Act provides that proceedings in the District Court in respect of an offence may be commenced by the issuing as a matter of administrative procedure of a summons by the appropriate office of the District Court under the general superintendence of the appropriate District Court clerk and the name of such District Court clerk shall appear on the summons.
>
> The application for such summons may be made by or on behalf of the persons referred to in s. 1, sub-s. 4 of the said Act.

Section 1, sub-s. 7 (a) provides that:—

> 'Any provision made by or under any statute passed before the passing of this Act relating to the time for making a complaint in relation to an offence shall apply, with any necessary modifications, in relation to an application under subsection (4) of this section.'

Obviously, the statute referred to therein was the Petty Sessions (Ireland) Act, 1851, and in particular s. 10, para. 4 thereof."

20. The court continued at p. 538:

> "Prior to the enactment of the Courts (No. 3) Act, 1986, the jurisdiction of District Justices to enter upon the hearing of an alleged offence, triable summarily depended from the earliest times upon the making of a complaint or information before a person authorised to receive the complaint and as stated by Kingsmill Moore J. in the course of his judgment in *Attorney General (McDonnell) v. Higgins* [1964] I.R. 374 at p. 391:—
>
> > 'Neither summons nor warrant to arrest, consequent on the information confer jurisdiction. They are merely processes to compel the attendance of the person accused of the offence.'
>
> As the Petty Sessions (Ireland) Act, 1851, has not been repealed or replaced, this method of invoking the jurisdiction of the District Court, viz. the making of a complaint to a person duly authorised to receive it, still remains but the Courts (No. 3) Act, 1986, provides an additional method of invoking the jurisdiction of the District Court which is available only to the Attorney General, the Director of Public Prosecutions, a member of the Garda Síochána or any person authorised by or under statute to prosecute an offence.
>
> This procedure was followed in respect of the offences alleged in the summonses in this case.
>
> The jurisdiction of the District Court was invoked by the commencement of proceedings in that court by the issue of a summons in accordance with the provisions of the Courts (No. 3) Act, 1986, and the learned District Justice erred in law in deciding that the making of a complaint in accordance with the provisions of the Petty Sessions (Ireland) Act, 1851, was necessary to confer jurisdiction on him."

21. It is clear from the foregoing that Hamilton P. concluded that the issue of a summons under the 1986 Act, being the commencement of proceedings in the District Court, invoked the jurisdiction of that court and the making of a complaint was not necessary for that purpose.

22. The President's judgment was upheld by the unanimous judgment of a five member Supreme Court delivered by Finlay C.J.

23. The Chief Justice considered the effect of s. 1 (1) of the 1986 Act and said, at p. 545:-

> "I am satisfied that the provisions of s. 1, sub-s. 1 of the Act of 1986 which provide for the commencement of proceedings in the District Court in respect of an offence is inconsistent with any interpretation other than that the legislature intended by this statute to vest in the District Court jurisdiction to try an offence the proceedings in which were commenced in accordance with the statutory provisions contained in the Act. I reject as being inconsistent with the unambiguous meaning of this sub-section and indeed with other provisions in the Act of 1986 as well, the submission made on behalf of the defendants that all that was provided for by this Act was the right of a person mentioned in sub-s. 4 of s. 1 to give notice to an individual of his intention at some later date to make a complaint to a District Justice pursuant to s. 10 of the Petty Sessions (Ireland) Act, 1851.
>
> If it were possible to introduce any doubt as to the true interpretation of s. 1, sub-s. 1 of the Act as to the effect of the commencement of proceedings in relation to the vesting of jurisdiction in the District Court, it would be dispelled, in my view, by the provisions of s. 1, sub-section 6. I am satisfied that only one meaning can be given to sub-s. 6 of s. 1 and that is that a summons duly issued under the Act of 1986 shall have the same force and effect as has a summons issued pursuant to s. 10 of the Act of 1851 which was, of course, the law in force immediately before the passing of the Act of 1986. That was, having regard to the relevant provisions of the Courts of Justice Act, 1924, and the Courts (Supplemental Provisions) Act, 1961, to vest in the District Court the jurisdiction to try summary offences. I am satisfied that the learned President of the High Court was correct in concluding in *Nolan's* case that the procedures provided for in the Act of 1986 must be considered as parallel to those provided for in the Act of 1851."

24. It seems therefore there can be no doubt from the judgment in Nolan that whereas the jurisdiction of the District Court is invoked by the making of a complaint to the District Judge where the procedure under the 1851 Act is utilised, the parallel procedure, now available under the 1986 Act, invokes that jurisdiction at the time the summons is issued. Were it to be otherwise, it would give rise to entirely anomalous results. As I have said, the DPP submits that if jurisdiction is not conferred until the hearing before the District Judge, then a prosecution could be frustrated by the accused changing address, possibly on a continuous basis, between the issue of the summons and the return date in the District Court. Garuda's answer to this is that the prosecutor always has the option of issuing the summons in the District Court area where the offence is alleged to have been committed. In my view, that submission cannot be correct. One can envisage many offences where it may not be possible to determine with precision, or perhaps at all, where the offence was committed. Such situations could arise for example in the context of cyber crime. If Garuda's submissions are well founded, it would mean that in such instances, where there was no arrest because the accused is a company or for any other reason, the accused could in effect permanently frustrate a prosecution by repeated changes of address between the date of issue of the summons and the return date before the District Court. That cannot conceivably have been the intention of the legislature in enacting the 1986 Act.

25. Garuda further placed significant reliance on the judgment of Kelly J. in *Murray* as providing support for the proposition that no jurisdiction was conferred on the District Court in advance of the making of a complaint on the return date of a summons issued under the 1986 Act. I do not read the judgment of Kelly J. as supporting that contention. The point at issue in that case was whether the hearing of a summons issued pursuant to the procedure provided for in the 1986 Act must take place within six months of the date of the offence. The court, expressly following the judgment of the Supreme Court in *Nolan*, held that it was only necessary that the summons be issued within the six month period and it was immaterial when the hearing of the complaint took place. Kelly J. said, at p.

386:-

> "The applicant argues that the proper construction of [s. 1(7)(a) of the 1986 Act] means that when the procedures created by the Act of 1986 are used not merely must the application for the issue of the summons be made within six months of the date of the alleged commission of the offence but the hearing of that summons (which is in fact the complaint) must be entered upon by the district judge within the six month period.
>
> The basis for this submission is to the effect that the jurisdiction in the District Court to deal with a summary offence depends upon a complaint being made."

26. Kelly J. went on to consider the decision of Hamilton P. in *Nolan* which was subsequently followed by McGuinness J. in *the National Authority for Safety and Health v. O'Brien* [1997] 1 I.R. 543 and observed, at p. 387:-

> "I am in respectful agreement with the views expressed by both Hamilton P. and McGuinness J. in the decisions just cited. These judgments make it clear that there are two ways in which a defendant may be summoned before the District Court. First, the procedure described under the Act of 1851 may be utilised. This involves the making of a complaint to a District Judge on foot of which a summons is issued. That complaint must be made within six months in order to comply with the provisions of s. 10 of the Act of 1851. The second procedure involves a request for the issue of a summons under the Act of 1986. A complaint is not made at the time that the summons is sought. The complaint is made to the District Court when the summons is listed for hearing before the District Judge."

27. Undoubtedly this is an accurate charactisation of the procedure available under both statutes but far from supporting the applicant's contention, it seems to me to run counter to it. As Kelly J. remarked, the entire basis for the applicant's claim in *Murray* was that the jurisdiction of the District Court to deal with a summary offence depended upon a complaint being made. The result makes clear that the court did not accept that submission. Whilst it remains true to say that under the 1986 Act procedure for issuing a summons, the complaint continues only to be made on the return date, the issuing of the summons has the effect of commencing the proceedings thereby invoking the relevant jurisdiction. Hamilton P. said as much in *Nolan*.

Conclusions

28. In the result therefore, I am satisfied that, with regard to the two summonses relating to the 2003 offences, the District Judge erred in declining jurisdiction. With regard to the summons in relation to the 2007 offence, it is clear that the District Judge had no valid reason for declining jurisdiction in respect of that summons and although Garuda has argued that relief should be refused on discretionary grounds in respect of that summons, I do not find the reasons advanced to be persuasive.

29. Accordingly, I will grant an order of *certiorari* quashing the District Judge's decision to decline jurisdiction in respect of all three summons together with an order of *mandamus* directing him to assume jurisdiction and deal with the proceedings the subject matter of the said summons.