

1962  
Sept. 28  
THE ATTORNEY-  
GENERAL  
v.  
CHRYSO PHIVOU  
STAVRIDOU

[WILSON, P., ZEKIA, VASSILIADES and JOSEPHIDES, JJ.]

THE ATTORNEY-GENERAL OF THE REPUBLIC,

*Appellant,*

CHRYSO PHIVOU STAVRIDOU

*Respondent.*

*(Criminal Appeal No. 2535).*

*Criminal Law—Perjury, contrary to sections 110 and 111 of the Criminal Code, Cap. 154—Sentence—Increase of sentence by the High Court on appeal by the Attorney-General under section 25(3) of the Courts of Justice Law, 1960.*

The appellant was convicted on her own plea of perjury and sentenced to a fine in the sum of £25 and to one day's imprisonment. On appeal by the Attorney-General from that sentence under section 25(3) of the Courts of Justice Law, 1960, the High Court increased the sentence to one of two years'.

*Held* : (1) The view of the majority of the Court is that the penalty imposed by the trial Judge will be set aside and she will be sentenced to a term of two years' imprisonment.

(2) The trial Judge rightly stated that this is a most serious offence but, with the greatest respect, we differ from his views as to the penalty to be imposed. Against a male offender the sentence we are to pronounce would, undoubtedly, be much heavier than what we intend to impose upon the accused. The Courts nearly always display some leniency towards women, and we adopt that view here.

(3) *Per ZEKIA, J.* : In his partly dissenting judgment : Taking into consideration the tragic circumstances under which she lost her husband and also the agonies she went through by the murder of her husband plus the fact that she has a child of nine years who needs the care of a mother, I would be content if the sentence was increased to one of six months rather than of two years.

(4) *Per VASSILIADES J.* : If I were to measure the sentence provided by law, on the circumstances of this case, without

taking into account the compassionate grounds which have affected the opinion of my brother Zekia Bey, I must say that I would be inclined to think that a term of four or five years imprisonment might well be justifiable.

Public security rests to a considerable extent on the assistance of the public in the detection of the criminal. And when such assistance takes the form of evidence it must be sufficiently protected and sufficiently respected by all concerned.

In this particular case the Court in passing sentence on this poor woman had to take into account her tragic circumstances. But, along side with them, it had to take into account also the public interest; and the duty to apply the law in an effective manner.

I am perhaps as sorry as Zekia Bey is for the distress which has be fallen this woman and her child. On the other hand, I must say that it is with great reluctance that I have brought myself to agree with other members of this Court on what I consider an extremely lenient sentence for the facts of this case: a term of two years' imprisonment.

*Appeal allowed. Sentence increased to one of two years' imprisonment.*

#### **Appeal against sentence by the Attorney-General of the Republic.**

The respondent was convicted on the 4/7/62 at the District Court of Nicosia (Cr. Case No. 13343/62) on one count of the offence of perjury contrary to ss. 110 and 111 of the Criminal Code, Cap. 154 and was sentenced by Pierides, D.J. to one day's imprisonment and £25. --- fine.

1. *Aziz* for the appellant.

2. *Triantafyllides* for the respondent.

Wilson, P.: This is an appeal by the Attorney-General of the Republic from a sentence of one day's imprisonment and a fine of £25 imposed by the District Court of Nicosia upon the accused on July 4, 1962, following a plea of guilty to a charge of perjury contrary to sections 110 and 111 of the

1962  
Sept. 28  
THE ATTORNEY-  
GENERAL  
v.  
CHRYSO PHIVOU  
STAVRIDOU  
Wilson, P.

Criminal Code, Cap. 154, appearing in count 1 of the charge-sheet on June, 22nd 1962.

Upon a second count alleging contradictory statements by a witness, contrary to sections 113(1) (a) and 111 of the Criminal Code, Cap. 154, no evidence was offered and the accused was discharged.

The two charges arose out of the contradictory statements made on oath during the preliminary inquiry and at the trial of one Christakis P. Petrides of Korakou who was charged with murder, and upon which he was acquitted. The case turned largely on the evidence of the accused.

Before the trial judge the accused was represented by a very experienced and able counsel. There was no doubt that the plea of guilty was entered at the full knowledge of what such a plea entailed. I mention this only because of the arguments put forward by her counsel on the appeal to the effect that this Court should enquire behind the proceedings which took place before the trial judge. In our opinion that was unnecessary.

Coming to the offence itself, it is one of the serious offences. To protect the public, the representatives of the people have seen fit to impose a maximum penalty of 7 years. It is a difficult one to prove and in this case the Court cannot take a light view of what has occurred.

The trial judge rightly stated that this is a most serious offence but, with the greatest respect, we differ from his views as to the penalty to be imposed. Against a male offender the sentence we are to pronounce would, undoubtedly, be much heavier than what we intend to impose upon the accused. The Courts nearly always display some leniency towards women, and we adopt that view here.

The view of the majority of the Court is that the penalty imposed by the trial judge will be set aside and she will be sentenced to a term of 2 years' imprisonment.

The members of the Court are not unanimous with respect to the term to be imposed. I will ask Mr. Justice Zekia to be good enough to deliver his opinion.

ZEKIA, J. : Taking into consideration the tragic circumstances under which she lost her husband and also the agonies she went through by the murder of her husband plus the fact that she has a child of 9 years who needs the care of a mother, I would be content if the sentence was increased to one of 6 months rather than of 2 years.

1962  
Sept 28  
THE ATTORNEY  
GENERAL  
v  
CHRYSO PHYLOS  
STAVRIDOU

VASSILIADIS, J. : In view of the divergence of opinion regarding the sentence in this case, and the aspect taken by my brother Zekia Bey in this connection, I feel that I must state my views on the matter.

This is a serious offence as everyone apparently realises, and as the sentence provided by law clearly implies. It was committed in a murder case, the terrible circumstances of which I need not stress. Everyone concerned with the case including the woman in the dock, cannot fail to appreciate the gravity of the trial in which the perjury under consideration was committed.

If I were to measure the sentence provided by law, on the circumstances of this case, without taking into account the compassionate grounds which have affected the opinion of my brother Zekia Bey, I must say that I would be inclined to think that a term of 4 or 5 years' imprisonment might well be justifiable.

Public security rests to a considerable extent on the assistance of the public in the detection of the criminal. And when such assistance takes the form of evidence it must be sufficiently protected, and sufficiently respected by all concerned.

In this particular case the Court in passing sentence on this poor woman had to take into account her tragic circumstances. But, along side with them, had to take into account also the public interest ; and the duty to apply the law in an effective manner.

I am perhaps as sorry as Zekia Bey is for the distress which has befallen this woman and her child. On the other hand, I must say that it is with great reluctance that I have brought myself to agree with other members of this Court, on what I consider an extremely lenient sentence for the facts of this case : a term of 2 years' imprisonment.

1962  
Sept. 28  
—  
THE ATTORNEY-  
GENERAL  
v.  
CHRYSO PHIVOU  
STAVRIDOU

JOSEPHIDES, J. : I agree with the reasons given and the conclusion reached by the Honourable the President of this Court.

*Appeal allowed. Sentence increased into one of two years' imprisonment.*