

1966
Nov. 11

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SAVVAS
YIANGOU
MITIDES

v.
THE POLICE

[VASSILIADES, AG. P., TRIANTAFYLIDIS, AND JOSEPHIDES, JJ.]

SAVVAS YIANGOU MITIDES,

Appellant,

v.

THE POLICE,

Respondents.

(*Criminal Appeal No. 2855*)

Criminal Law—Sentence—Offences against the Pharmacy and Poisons Law, Cap. 254, (as amended by the Pharmacy and Poisons Law, 1962, viz. Law No. 59 of 1962) sections 25 (1), 4A (1), and contrary to regulation 6 (1) of the Pharmacy and Poisons Regulations—Appeal against sentence—In view of the fact that all the counts in this case arose out of one and the same transaction, so that in effect the offences involved were committed by the Appellant at one and the same time—It was not called for to sentence the appellant to separate and distinct sentences of fine in respect of each separate count—Maximum fine £50 imposed on count 1 and no sentence imposed in respect of the remaining counts—Order accordingly.

Pharmacy and Poisons—Offences against Cap. 254, supra—See under Criminal Law, above.

Appcal against sentence.

Appeal against the sentence imposed on the appellant who was convicted on the 13th October, 1966 at the District Court of Nicosia (Criminal Case No. 18568/66) on 2 counts of the offence of selling poison, contrary to section 25 (1) of the Pharmacy and Poisons Law, Cap. 254, on one count of the offence of selling strychnine without prescription, contrary to regulation 6 (1) of the Pharmacy and Poisons Regulations and on one count of the offence of selling drugs to the public without being a pharmacist contrary to section 4A (1) of the Pharmacy and Poisons Law, Cap. 254, as amended by the Pharmacy and Poisons (Amendment) Law, 1962 (Law 59/62) and was sentenced by Ioannides, D.J., to pay a fine of £20 on each of counts, 1, 2, and 4 and £10 fine on count 3.

Appellant, in person.

M. Spanos, Counsel of the Republic, for the respondents.

VASSILIADES, AG. P.: The judgment of the Court in this case will be delivered by Mr. Justice Triantafyllides.

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TRIANATAFYLLIDES, J.: The appellant in this case appeals against the sentence imposed on him after he had pleaded guilty to two counts of selling poisons contrary to section 25 (1) of the Pharmacy and Poisons Law, Cap. 254, to one count of selling strychnine without prescription, contrary to regulation 6 (1) of the Pharmacy and Poisons Regulations, and to one count of selling drugs to the public without being a pharmacist, contrary to section 4A (1) of the Pharmacy and Poisons Law Cap. 254 as amended by the Pharmacy and Poisons (Amendment) Law, 1962 (Law 59/62). He was sentenced to a fine of £20 on three of the counts concerned, and to a fine of £10 on the remaining one.

All the several, as aforesaid, charges against the appellant arose out of one and the same transaction :—On the 16th June, 1966, the appellant sold to one Charalambos Panayiotou, of Ayios Dhometios, 20 ampoules of a preparation called “ Strychnine Compose ” containing two poisonous substances *viz.* a salt of strychnine alkaloid and an organic compound of arsenic. He was paid, in return, the amount of £6. The appellant is not a pharmacist or an authorized seller of poisons, and he sold the ampoules in question without a prescription.

Appellant contends in this appeal that the sentence imposed on him is excessive.

We take the view, first, that it was not the proper course to charge in two separate counts, respectively, the selling of each of the two poisons to be found in the preparation sold by the appellant to the aforesaid Panayiotou ; the offence was one, even though there were two poisons contained in such preparation. We, therefore, direct that the first and second counts of the charge-sheet should be merged into one count charging the sale of 20 “ Strychnine Compose ” ampoules containing the two poisons concerned.

There can be no doubt that the offences, to which the appellant has pleaded guilty, cannot be treated lightly and the learned trial Judge was quite right in thinking in terms of relatively heavy fines ; had the appellant not been a first offender then he would have merited a term of imprisonment.

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In view of the fact, however, that all the counts in this case arose out of one and the same transaction, so that in effect the offences involved were committed by the appellant at one and the same time, through selling on that one occasion the 20 ampoules in question, it was not called for to sentence the appellant to separate and distinct sentences of fine in respect of each separate count.

In the light of all the foregoing we have decided, therefore, to impose on the appellant the maximum fine under the Law, *viz.* £50, on the new count 1—as resulting from the merger of the old counts 1 and 2—and to impose no sentence in respect of the remaining counts. There shall be 7 days' stay of execution, as ordered by the trial Court.

Appeal allowed. Sentence varied as above.