

1968
Dec. 19

[VASSILIADES, P., STAVRINIDES AND HADJIANASTASSIOU, JJ.]

CHRISTOFIS
DEMETRIS
HOURRIS
v.
THE REPUBLIC

CHRISTOFIS DEMETRIS HOURRIS,
Appellant,

v.

THE REPUBLIC,
Respondent.

(*Criminal Appeal No. 3047*)

Criminal Law—Sentence—Sentence of fifteen years' imprisonment on a charge of homicide under section 205 of the Criminal Code, Cap. 154 (as amended by Law No. 3 of 1962)—Not excessive in the circumstances of this case.

Sentence—Appeal—Approach of the Appellate Court in appeals against sentence—Principles restated.

Appeal—Appeal against sentence—See above under Sentence.

Sentence—See above under Criminal Law ; Sentence.

Homicide—Contrary to section 205 of the Criminal Code, Cap. 154 (as amended by Law No. 3 of 1962)—Sentence—See above.

The appellant was convicted of the offence of homicide contrary to section 205 of the Criminal Code, Cap. 154 (as amended by Law No. 3 of 1962) and sentenced to fifteen years' imprisonment. He now appeals against sentence on the ground that it is manifestly excessive.

After reviewing the facts and in dismissing the appeal, the Court :

Held, (1). The approach of this Court to an appeal against sentence on the ground that it is excessive, has been stated in a number of cases and is now well settled. One of the most recent cases is *Demetriou v. The Police* (reported in this Part at p. 127 *ante*), where reference is also made to earlier decisions.

(2) To succeed in his appeal, the appellant has to convince this Court that the trial Court misdirected itself either on the law or on the facts ; or that it allowed itself to be influenced by matter irrelevant to the sentence. No such submission could be made in this case.

(3) We find ourselves unable to accept counsel's submission that the sentence imposed by the Assize Court is manifestly excessive. The Assize Court have taken into consideration all mitigating circumstances as well as the requirements of the law and their responsibility for its application. We certainly do not think that there is anything wrong in their sentence ; and we dismiss the appeal and affirm the sentence as from the date of conviction.

1968
Dec. 19
—
CHRISTOFIS
DEMETRIS
HOURRIS
P.
THE REPUBLIC

Appeal dismissed. Order accordingly.

Cases referred to :

Demetriou v. The Police (reported in this Part at p. 127 *ante*).

Appeal against sentence.

Appeal against sentence by Christofis Demetris Hourris who was convicted on the 14th October, 1968, at the Assize Court of Famagusta (Criminal Case No. 4807/68) on one count of the offence of homicide contrary to section 205 of the Criminal Code, Cap. 154 (as amended by Law No. 3 of 1962) and was sentenced by Georghiou, P.D.C., Savvides and Pikis, D.JJ. to 15 years' imprisonment.

A. Triantafyllides, for the appellant.

S. Georghiadis, Counsel of the Republic, for the respondent.

The judgment of the Court was delivered by :—

VASSILIADES, P.: On its legal aspect this appeal presents no difficulty. The approach of this court to an appeal against sentence on the ground that it is manifestly excessive, has been stated in a number of cases and is now well settled. One of the most recent cases, is *Demetriou v. The Police* (reported in this Part at p. 127 *ante*) where reference is also made to earlier decisions. To succeed in his appeal, the appellant has to convince this Court that the trial Court misdirected itself either on the law or on the facts ; or that it allowed itself to be influenced by matter irrelevant to the sentence. No such submission could be made in this case. Learned counsel for the appellant attacked the sentence of the trial Court on the ground that it is manifestly excessive in the circumstances.

We find ourselves unable to accept this submission. The trial Court have taken into consideration all mitigating circumstances. They have taken into account the very

1968
Dec. 19

—
CHRISTOFIS
DEMETRIS
HOURLIS

v.

THE REPUBLIC

great strain under which the appellant committed the crime ; they have also taken into consideration the requirements of the law and their responsibility for its application. We certainly do not think that there is anything wrong in their sentence ; and we dismiss the appeal.

We do not find it necessary to go again into the facts. They are sufficiently stated in the judgment of the Assize Court. Apparently learned counsel for the prosecution accepted on behalf of the Attorney-General a plea of guilty on a homicide charge instead of that of premeditated murder, having regard to the emotional strain under which this particular man, an unfortunate, crippled and uneducated person, has committed the crime. It may be that the facts of this case raise a social problem. It may be that they also raise a legal problem for consideration against the background of the moral code in this country in connection with conduct such as that of the victim's husband. It may be that if this father felt that the law would call on the man who unscrupulously violated his home and his only daughter, to answer for his conduct, he (the father) might, perhaps, vindicate his family honour through the law and not with his gun. But all these matters are not for the Court to consider at this stage. We commend them to the attention of the appropriate authority who may have to deal further with this unfortunate man and his family of mostly minor children. In this Court we have to decide the appeal before us, on the law as it stands. And as we have already said, we must dismiss the appeal. We affirm the sentence as from the date of the conviction.

Appeal dismissed. Order accordingly.