

RAYMONDOS ANASTASSIOU,

*Appellant,*

v.

THE REPUBLIC,

*Respondent.*

RAYMONDOS  
ANASTASSIOU  
v.  
THE REPUBLIC

(*Criminal Appeal No. 3097*).

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*Sentence—Appeal against concurrent sentences of two years' imprisonment for possessing narcotics (cannabis sativa)—Sections 6, 24(1) and (2) of the Narcotic Drugs Law, 1967 (Law No. 3 of 1967) and regulation 5 of the Narcotic Drugs Regulations, 1967—Medical aspect and effect of sentence on a particular offender—Although the said sentence does not appear to be excessive it must however be set aside in the special circumstances of this case—And substituted by a Probation Order for two years on certain special conditions—Principles adopted in the cases of *Pikatsas v. The Police* and *Yenovkian v. The Republic* (reported in (1963) 1 C.L.R. pages 1 and 44 respectively) followed.*

*Narcotic Drugs—Possessing—Sentence—See above.*

*Criminal Procedure—Appeal—Appeal against sentence—Hearing of appeal adjourned to enable Prison Authorities to deal with appellant as a medical case and report to the Court.*

Cases referred to :

*Pikatsas v. The Police* (1963) 1 C.L.R. 1 ;

*Yenovkian v. The Republic* (1963) 1 C.L.R. 44 ;

*Grivas and Another v. The Police* (1967) 2 C.L.R. 301 ;

*Stavrou alias Afamis v. The Republic*, reported in this Part at p. 117 *ante* ;

*Kallia v. The Republic*, reported in this Part at p. 132 *ante*.

The facts sufficiently appear in the judgment of the Court whereby the concurrent sentences of two years' imprisonment have been set aside and a Probation Order on certain conditions for two years was substituted therefor. (See this order *post* in the judgment).

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### Appeal against sentence.

Appeal against sentence by Raymondos Anastassiou who was convicted on the 19th May, 1969, at the Assize Court of Limassol (Criminal Case No. 353/69) on two counts of the offence of possessing cannabis sativa contrary to sections 6 and 24(1) and (2) of the Narcotic Drugs Law, 1967 (Law 3 of 1967) and reg. 5 of the Narcotic Drugs Regulations, 1967 and was sentenced by Malachtos, P.D.C., Kakathimis and Boyiadjis, D.JJ., to one year's imprisonment on the first count and to two years' imprisonment on the second count, the sentences to run concurrently.

*Appellant*, appeared in person.

*S. Nicolaidis*, Counsel of the Republic, for the respondent.

The judgment of the Court was delivered by :—

VASSILIADES, P.: The appellant was convicted in the Assize Court of Limassol on May 19, 1969, on the two counts in the information upon which he was charged together with two other persons. The first count for possessing 1,5 grams of cannabis sativa, contrary to sections 6 and 24(1) and (2) of Law 3, (1967), and regulation 5 of the Dangerous Drugs Regulations, Notification 115/67 ; and the second count for having in his possession at his house 66 grams of cannabis sativa on December 2, 1968. He was sentenced to one year's imprisonment on the first count and two years on the second count, concurrently. He is now appealing against sentence on the ground that the sentence imposed is manifestly excessive.

The appellant, a man of 33 years of age, was at the material time in the employment of the District Administration of Limassol as a Coast Guard. He is a married man with four minor children all below the age of 12. A few years ago he had the misfortune of losing his right hand from a point above the wrist in an accidental explosion which, apparently, has also affected the use of his left hand. He, moreover, has the misfortune of a character which led him into difficulties with the law on numerous occasions ever since he was a youth ; so that he now has a list of no less than twenty previous convictions for a variety of offences for which he received a variety of sentences. He was bound over or fined on several occasions ; he was put on probation for two years and was sent to prison for six months

in 1952 for failing to comply with the conditions of a probation order. He was also sentenced to three weeks' imprisonment for common assault in 1961 ; and to six weeks' imprisonment in September 1963 for the possession of Indian hemp.

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In passing sentences of imprisonment in the instant case, on all the accused, the Assize Court said :

“ In considering what would be the appropriate sentence in your case, we have taken into consideration the facts and circumstances of the case as proved before us, as well as what has been said on behalf of each one of you in mitigation of punishment. In particular we have taken into account your personal circumstances, without losing sight of the fact, that possession of *cannabis sativa* is nowadays considered as a very serious offence . . . . . We are of the view that only a term of imprisonment would adequately meet the circumstances of this case.”

We may say at once that considering the circumstances in which the offence was committed, we agree with the view taken by the trial Court regarding sentence. Sentences of imprisonment for the possession of narcotics, imposed by trial Courts, have been affirmed on appeal by this Court in several cases. We may refer to *Andreas Panayiotou Grivas and Another v. The Police* (1967) 2 C.L.R.301 ; *Andreas Stavrou alias Afamis v. The Republic* (reported in this Part at p. 117 *ante*) ; *Kallia v. The Republic* (reported in this Part at p. 132 *ante*), an appeal against sentence by one of the accused in this very case.

In dealing, however, on July 1st, 1969, with the case of the appellant now before us, and particularly in considering the medical aspect and effect of his sentence, we took the view that the hearing of the appeal should be adjourned until after the vacation, to enable the Prison Authorities to deal with the appellant as a medical case ; and to report to the Court on the effect of any treatment which the medical services might decide to give to the appellant as an addict, in the meantime.

When the appeal came up before the Court again on October 22, 1969, we had the benefit of a social investigation report from the Limassol District Welfare Office (where the appellant comes from) as well as a report from the Prison Social Worker who was personally in attendance. This officer moreover produced the medical report (dated

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30th September, 1969) regarding appellant's condition which after dealing with the state of his amputated hand, further certified that at the time of the examination, the appellant presented "no signs or symptoms of drug addiction."

After hearing all concerned, we found it necessary to adjourn the case further until today, to enable the prison services to make arrangements for a new adjusting operation to appellant's forearm ; and we now have before us three further reports regarding the medical aspect of appellant's case. The appellant has been subjected in the meantime to a fresh successful operation to the amputated end of his right forearm ; and the Prison Social Worker, who was again in attendance, informed the Court that during the period between appellant's admission to prison on May 19, 1969, and the present day *i.e.* a period of just over six months, the appellant proved co-operative and responsive to treatment and that his conduct, notwithstanding his handicaps, was in every way satisfactory.

Appellant's case in the appeal before us, rests mostly on a plea of repentance and of solemn assurances that he will change his ways of life, severing himself completely from friendships and associations which got him involved in activities for which he was repeatedly before the Courts in the past.

We gave the matter most anxious consideration in the light of all the material before us ; including the reports to which we have already referred ; and including the effect of these last six months of imprisonment on the general outlook on life of this unfortunate man, as seen by the prison social and medical services. Eventually, we came to the conclusion, not without considerable difficulty, that if he could be saved to his family and to the community in general, by a fresh chance on probation, the attempt would be worth the risk ; and socially justified. On the principles adopted by this Court in the case of *Robert Levon Yenookian v. The Republic*, 1963, Cyprus Law Reports Part I (Criminal) p. 44, and in the case of *Georghios Pikatsas v. The Police*, (reported in the same volume at p. 1) we decided to give the appellant this further chance. After the improvement of his general condition as a result of the recent operation to his arm, and after the proof which he gave of his ability to co-operate with the Prison Social services, we think that he may now be able to take the desired turn in his life ; and we decided to give him the chance to do so under a probation order.

We decided to set aside the sentence imposed by the Assize Court in order to place the appellant on probation for two years from today, under certain special conditions in the Probation Order, necessary, in our opinion, for the success of this attempt at reforming the appellant.

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The final result in the Yenovkian case (*supra*) may serve as a useful warning to the appellant of the probable consequences of the failure to keep his promises to the Court ; and his obligations under the probation order. We have also made clear to the appellant what would be expected of him under the Probation Order, before accepting his renewed assurances at a complete reform ; and his consent to the conditions to be incorporated in the Order.

We can now reach the result of the appeal. Appellant's sentence of imprisonment will be set aside ; and the appellant will be discharged from prison on probation for the period of two years from today, under a probation order including the following conditions ;

(1) The probationer shall be under the supervision of the District Welfare Officer for the District of Limassol (or any Probation Officer nominated by him), for the period of two years, unless the order be earlier discharged or varied by the Supervising Court.

(2) The Supervising Court shall be the District Court of Limassol.

(3) The probationer shall reside in the town of Limassol as the Probation Officer may approve, from time to time.

(4) The probationer shall comply with the directions of the Probation Officer as to his general conduct and mode of living.

(5) The probationer shall take up employment as the Probation Officer may arrange or approve from time to time during the validity of the Probation Order.

(6) For the first twelve months of the period of probation or for such shorter time as the Supervising Court may direct on the recommendation of the Probation Officer, the probationer shall not leave his house between sunset and the following sunrise, unless he has a permit in writing, from the Probation Officer specifying the purpose of the outing.

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(7) The probationer shall abstain from such friendships associations, or places as the Probation Officer may direct in writing from time to time.

(8) The probationer shall visit the Probation Officer as he may be required to do from time to time, for the purpose of reporting to the Probation Officer regarding the probationer's mode of life ; and for taking directions from the Probation Officer in connection thereto. The probationer shall, moreover, receive visits from the Probation Officer, as the latter may think necessary for the purposes of the probation order.

(9) The probationer agrees to submit to any medical examination or test connected with the use of narcotics as the Probation Officer may require of the probationer from time to time.

(10) The probationer shall be liable to be called upon to attend the Supreme Court for judgment and sentence in this case, at any time during the validity of the probation order.

Copy of this Probation Order to be handed to the probationer against his signature by the Supervising Probation Officer who shall retain a similar copy. Similar copy to be supplied to the prison Social Worker, whom the Probation Officer will keep informed of the probationer's progress for the purposes of the prison records.

Appeal against sentence allowed ; appellant released from prison under a probation order in the above terms.

*Appeal allowed.*