

[TRIANTAFYLIDES, P., L. LOIZOU, A. LOIZOU, JJ.]

1971
June 18

IOANNIS ANDREOU MAOS,

Appellant,

v.

IOANNIS
ANDREOU MAOS
v.
THE REPUBLIC

THE REPUBLIC,

Respondent.

(*Criminal Appeal No. 3254*).

Sentence — Appeal — Narcotic drugs — Two and a half years' imprisonment for possessing a narcotic drug—Sections 6 and 24 of the Narcotic Drugs Law, 1967 (Law 3 of 1967) and Regulation 5 of the Narcotic Drugs Regulations, 1967—Trial Court's approach that use of narcotics has become a social problem in Cyprus, endorsed—Appeal against sentence dismissed.

Narcotic Drugs—Possessing—Sentence—Use of narcotics has become a social problem in Cyprus.

Appeal against sentence—See supra.

The facts of this case sufficiently appear in the judgment of the Court dismissing this appeal against sentence and endorsing the view taken by the trial Court to the effect that the use of narcotics has become in Cyprus a social problem.

Cases referred to:

Anastassiou v. The Republic (1969) 2 C.L.R. 193;

Stavrou Alias Afamis v. The Republic (1969) 2 C.L.R. 117;

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

Appeal against sentence.

Appeal against sentence by Ioannis Andreou Maos who was convicted on the 11th May, 1971 at the Assize Court of Nicosia (Criminal Case No. 2098/71) on one count of the offence of possessing narcotic drugs contrary to sections 6 and 24 of the Narcotic Drugs Law, 1967 (Law 3/67) and regulation 5 of the Narcotic Drugs Regulations, 1967 and was sentenced by Ioannides, P.D.C., Stravinakis and Stylianides, D.JJ. to 2½ years' imprisonment.

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E. Odysseos with E. Efstathiou for the Appellant.

No appearance for the Respondent.

The judgment of the Court was delivered by:—

TRIANTAFYLLIDES, P.: In this case the Appellant appeals against the sentence of imprisonment for two and a half years which was imposed on him by an Assize Court in Nicosia, on the 11th May, 1971, for the offence of possessing, without being authorised by the Director of Medical Services, a narcotic drug, viz. 17 grams of *cannabis sativa*, contrary to the provisions of the Narcotic Drugs Law, 1967 (3/67) and of the Narcotic Drugs Regulations, 1967.

It has been submitted by counsel for the Appellant that the sentence imposed on him should be reduced because it is, in the circumstances, manifestly excessive. We are unable to agree with this submission, for the following reasons:—

The Assize Court in passing sentence stated, *inter alia*, that

“The use of narcotics has become a social problem all over the world..... We had hoped that Cyprus would not have to face the problem of narcotics to any considerable extent, but it appears that this is not so. From the statistics before us it is obvious that it has now become a social problem in Cyprus and as such it has to be faced by the Courts in Cyprus very sternly”.

We fully endorse the severe approach of the Assize Court towards what is, indeed, becoming a terrible social evil in our country.

The Assize Court went on to state the following in relation to the explanation of the Appellant that the said 17 grams were found in his possession because they had been forgotten by him, where they lay, since the time, two years ago, when he was taking narcotics as a means of relief from pain which he was suffering before undergoing a certain operation:

“It has been further suggested that the quantity found was what was left over from the time he was taking it and that he had no intention either to take it himself or supply it to other persons. However, no explanation was put forward as to why he had not destroyed this quantity and kept it for two years if, what was alleged on his behalf

were correct. This leads us to the conclusion that his version in this respect cannot be true. However, we will give him the benefit of the doubt as to whether he intended to trade in it or take it for himself”.

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As counsel who appeared for the Appellant before the Assize Court, and who are the same counsel who have appeared for him before us today, had pleaded, in mitigation, that according to their instructions the Appellant was no longer an addict, one would have expected that the conclusion to be arrived at, without any doubt, by the Assize Court—after it had rejected, as aforesaid, the Appellant’s version—would be that he intended to supply to others the 17 grams of cannabis sativa which were found in his possession; and, in such a case, the Appellant’s conduct called for punishment even more severe than two and a half years of imprisonment. It is, therefore, with some difficulty that we have refrained from increasing the sentence imposed on him by the trial Court.

Counsel for the Appellant have referred us to three previous cases involving possession of narcotic drugs: *Anastassiou v. The Republic* (1969) 2 C.L.R. 193, *Stavrou alias Afamis v. The Republic* (1969) 2 C.L.R. 117 and *Grivas and Another v. The Police* (1967) 2 C.L.R. 301. The case of *Anastassiou* was dealt with on the basis of very special considerations which render it definitely distinguishable from the present one. In the two other cases there were imposed in the first instance, and upheld on appeal, sentences of eighteen months’ imprisonment, two years ago and four years ago, respectively, at times when the possession of narcotics was not becoming, as now, a social menace.

In concluding we would like to observe that in this appeal there was no appearance of counsel for the Respondent; this is a most unfortunate situation which we trust will not be allowed to recur.

In the result the appeal is dismissed and the sentence of the Appellant is to run, according to law, from today.

Appeal dismissed.