

NIYAZI ABDULLAH,

*Appellant.*

v.

THE REPUBLIC,

*Respondent.*

NIYAZI  
ABDULLAH  
v.  
THE REPUBLIC

(Criminal Appeal No. 3285).

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*Sentence—Narcotic drugs—Two years' imprisonment for possession of narcotic drugs (cannabis sativa)—Section 24 of the Narcotic Drugs Law, 1967 (Law 3/67) and Regulation 5 of the Narcotic Drugs Regulations, 1967—Appellant a sixty years old labourer, who is not trading in narcotics but is a drug addict also sharing cannabis in his possession with other addicts—Seriousness of the offence—Possession of narcotic drugs a social evil in our country—Distinction should be made as regards sentencing, between a peddler and a consumer of narcotic drugs—However, Appellant by making drugs available to other addicts contributed to the spread of a social evil—Sentence appealed from neither manifestly excessive nor wrong in principle—Appeal dismissed.*

*Narcotic Drugs—Possession—A social evil—Sentence—See supra.*

The facts of this case sufficiently appear in the judgment of the Court, dismissing this appeal against a sentence of two years' imprisonment imposed on the Appellant—a narcotic drugs addict—for possessing narcotic drugs (cannabis sativa).

*Held*, (1). This Court in recent cases has made it abundantly clear that it considers narcotic drugs offences to be very serious offences because the possession of narcotic drugs is becoming a social evil in our country (see, *inter alia*, *Maos v. The Republic*, *Loizou v. The Republic* and *Hassan and Others v. The Republic*, all published in this Part at pp. 191, 196 and 210, respectively).

(2) A distinction should be made, as regards sentencing, between a peddler and a consumer of narcotic drugs (see, also, *Principles of Sentencing*, by Thomas, at p. 165); so had the Appellant been consuming cannabis as an addict without giving it to others, too, we might hold that a curative sentence of less than two years would have been sufficient; however, as

already stated, the Appellant is a person who not only indulges himself in the use of cannabis but, also, makes it available to other addicts and in this way he contributes to the existence of a social menace.

(3) Though, had we been a trial Court, we might have passed a less severe sentence, we cannot hold that the sentence appealed from (two years' imprisonment) is either manifestly excessive or wrong in principle. The appeal is, therefore, dismissed but the sentence should run from the date of conviction.

*Appeal dismissed.*

Cases referred to:

*Maos v. The Republic* (reported in this Part at p. 191, *ante*);

*Loizou v. The Republic* (reported in this Part at p. 196, *ante*);

*Hassan and Others v. The Republic* (reported in this Part at p. 210, *ante*);

*R. v. Bond* 53, Cr. App. R. 109.

See also the case *Shinkfield—Hollinghead* cited in Principles of sentencing by Thomas at p. 165.

#### **Appeal against sentence.**

Appeal against sentence by Niyazi Abdullah who was convicted on the 12th October, 1971 at the Assize Court of Nicosia (Criminal Case No. 10611/71) on one count of the offence of possessing narcotic drugs contrary to section 24 of the Narcotic Drugs Law, 1967 (Law 3/67) and regulation 5 of the Narcotic Drugs Regulations, 1967 and was sentenced by Demetriades, Ag. P.D.C., Papadopoulos, D.J. and Pierides, Ag. D.J. to 2 years' imprisonment.

*M. Aziz*, for the Appellant.

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

The judgment of the Court was delivered by:-

TRIANTAFYLLIDES, P.: The Appellant appeals against the sentence of two years' imprisonment which was imposed on him by an Assize Court in Nicosia, on the 12th October, 1971,

after he had pleaded guilty to a count charging him with possession of a narcotic drug, namely one gram of cannabis sativa, contrary to section 24 of the Narcotic Drugs Law 1967, (Law 3/67) and regulation 5 of the Narcotic Drugs Regulations, 1967.

The Appellant is a labourer, about sixty years old. His counsel has stressed that the Appellant does not trade in narcotic drugs but he is a drug addict who when he possesses a quantity of cannabis he consumes it himself and shares it, also, with other addicts; it has, therefore, been contended that this case should be distinguished from the cases of persons who traffic in narcotic drugs and that it should be treated on an individualized basis; it has not been submitted that the Appellant should not have been sent to prison, but it has been argued that in the circumstances of this case a much shorter term of imprisonment would suffice.

Counsel for the Appellant has, also, informed us that after the Appellant was sent to prison he was found to be suffering from pulmonary tuberculosis and that since the 29th October, 1971, he is under treatment at the Kyperounda Sanatorium.

This Court in recent cases (see, *inter alia*, *Maos v. The Republic* (reported in this Part at p. 191 *ante*), *Loizou v. The Republic* (reported in this Part at p. 196 *ante*), and *Hassan and Others v. The Republic* (reported in this Part at p. 210 *ante*)) has made it abundantly clear that it considers narcotic drugs offences to be very serious offences because the possession of narcotic drugs is becoming, unfortunately, a social evil in our country.

There can be no doubt that a distinction should be made' as regards sentencing, between a peddler and a consumer of narcotic drugs (see, also, *Principles of Sentencing* by Thomas, at p. 165); so had the Appellant been consuming cannabis as an addict without giving it to others, too, we might hold that a curative sentence of less than two years would have been sufficient; however, as already stated, the Appellant is a person who not only indulges himself in the use of cannabis but, also, makes it available to other addicts and in this way he contributes to the existence of a social menace.

In the case of *Bond*, 53 Cr. App. R. 109, there was upheld a sentence of three years' imprisonment which was passed on a seventeen years old offender who was a drug addict and

1971  
Nov. 25

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NIYAZI  
ABDULLAH  
v.  
THE REPUBLIC

who had on at least one occasion sold narcotic drugs in order to use the proceeds to obtain more drugs for his own use.

In the case of *Shinkfield-Hollinghead* (see Principles of sentencing, *supra*, at p. 165) "there was no evidence that cannabis had been sold, but some had been given to friends" and the sentence was reduced from thirty months to eighteen months.

Having anxiously considered the sentence which was imposed on the Appellant we are of the opinion that though, had we been a trial Court, we might have passed on him a less severe sentence, we cannot hold that the sentence appealed from is either manifestly excessive or wrong in principle; therefore, we should not interfere with it and this appeal is dismissed; but the sentence should run from the date of conviction.

In concluding we wish to stress that we trust that the Appellant will be given, pending the duration of his sentence, the medical treatment which he needs in view of the state of his health.

*Appeal dismissed.*