

ANDREAS P. PANAOUILLAS

Appellant,

v.

ANDREAS P.
PANAOUILLAS
v.
THE POLICE

THE POLICE,

Respondents.

(*Criminal Appeal No. 3393*).

Sentence—Assault—Aggravated assault—Eighteen months' imprisonment—Section 243 of the Criminal Code, Cap. 154—Seriousness of the offence—Premeditated assault causing quite serious injuries—Due weight must be given to deterrent aspect of the punishment—Sentence imposed not wrong in principle—But excessive in view of the Appellant's clean record, his personal circumstances and the fact that he had paid compensation to complainant regarding the civil liability aspect of his crime—Sentence reduced to one of one year's imprisonment.

Appeal against sentence—Sentence reduced as being excessive in the circumstances—See supra.

Assault—Aggravated assault—Sentence—See supra.

The facts sufficiently appear in the judgment of the Court, allowing this appeal against sentence and reducing it from eighteen months' imprisonment to one year's imprisonment.

Appeal against sentence.

Appeal against sentence by Andreas P. Panaoullas who was convicted on the 7th December, 1972 at the District Court of Nicosia (sitting at Morphou) (Criminal Case No. 4832/72) on one count of the offence of aggravated assault contrary to section 243 of the Criminal Code, Cap. 154 and was sentenced by Hji Constantinou, D.J. to 18 months' imprisonment.

A. Pandelides, for the Appellant.

V. Aristodemou, Counsel of the Republic, for the Respondents.

The judgment of the Court was delivered by:

TRIANTAFYLLIDES, P.: The Appellant complains that the sentence of eighteen months' imprisonment passed upon him

1973

Jan. 25

—

ANDREAS P.
PANAOUILLAS,
v.
THE POLICE

on the 7th December, 1972, in respect of the offence of aggravated assault, contrary to section 243 of the Criminal Code, Cap. 154, is excessive.

The offence was committed on the 15th May, 1972, and, as it appears from the facts placed before the trial Court, on the said date the Appellant went to a barber shop at Morphou where he met the complainant, with whom they had a financial dispute, and, on the pretext that they would try to settle their accounts, he took the complainant to an orchard near Morphou—belonging to the Appellant—where, on arrival, he at once assaulted the complainant most violently, punching him and hitting him with a shovel, causing him quite serious injuries.

The complainant managed to save himself from further harm by pretending that he had lost consciousness; and upon that the Appellant put him into his car and drove him back to Morphou, where he offered to take him to a doctor and to pay him, also, £50, provided he would not complain about what had happened. The complainant rejected the proposal and, quite properly in our view, went to the police and reported the incident.

We agree with the learned trial Judge that this is a very serious crime meriting severe punishment; in cases such as this one, of premeditated violence, due weight must be always given to the deterrent aspect of punishment, for the sake of protecting the community as a whole; so, it was not wrong in principle to send the Appellant to prison.

Once, however, the Appellant was sent to prison, the length of his incarceration ought to have been determined bearing in mind certain material factors in his favour, namely that he was a person with a clean record, married, and the supporter of a family, and that he had paid compensation to the complainant as regards the civil liability aspect of his crime; these ought to have weighed with the trial Court sufficiently in order to reduce the period of the prison sentence, to be imposed on the Appellant, to the minimum necessary in the circumstances, which we do not think that it ought to be longer than a year.

We have decided, therefore, that we should reduce the sentence of eighteen months' imprisonment—which in the circumstances we regard as being really excessive—to one of a year's imprisonment, as from the date on which the Appellant was sent to prison; and this appeal is allowed accordingly.

Appeal allowed.