1973
Sept. 20

NICOS FLOURENTZOU
v.
THE POLICE

[TRIANTAFYLLIDES, P., A. LOIZOU, MALACHTOS, JJ.]

NICOS FLOURENTZOU,

Appellant,

v.

THE POLICE,

Respondents.

(*Criminal Appeal No.* 3483).

Evidence in criminal cases—Accomplice's evidence—Corroboration—Conviction for stealing resting on the uncorroborated evidence of accomplice—Trial Judge duly directed himself—Conviction upheld on appeal—It does not really matter what particular form of words is used by a trial Court in expressing its view that the evidence before it establishes guilt beyond any reasonable doubt—Demeanour of witness—Important factor concerning credibility—But it is not something which has to be expressly referred to every time a witness is believed—Appeal against conviction dismissed.

Witness—Credibility—Demeanour of witness—See supra.

Proof beyond reasonable doubt—It does not matter what particular form of words is used by a trial Court in expressing its view that guilt of accused has been established beyond reasonable doubt—Cf. supra.

Accomplice—Evidence—Conviction resting entirely on the uncorroborated evidence of an accomplice—Trial Court properly directing itself—Conviction upheld.—See supra.

Corroboration—Accomplice's evidence—See supra.

The facts sufficiently appear in the judgment of the Court, upholding on appeal the Appellant's conviction resting entirely on the uncorroborated evidence of an accomplice.

Cases referred to:

Charitonos and Others v. *The Republic* (1971) 2 C.L.R. 40;
Peristianis v. *The Police* (1969) 2 C.L.R. 137;
Henry v. *Manning*, 53 Cr. App. R. 150.

Appeal against conviction.

Appeal against conviction by Nicos Flourentzou who was convicted on the 3rd July, 1973 at the District Court of Famagusta (Criminal Case No. 2003/73) on two counts of the offences of stealing from a dwelling house contrary to section 266(b) and stealing from a locked box contrary to section 266(g) of the Criminal Code, Cap. 154 and was sentenced by Artemis, Ag. D.J. to twelve months' imprisonment on count 1, and no sentence was passed on him on count 2.

L. Clerides with *E. Lemonaris*, for the Appellant.

A. Frangos, Senior Counsel of the Republic, for the Respondents.

The judgment of the Court was delivered by:-

TRIANTAFYLLIDES, P.: The Appellant appeals against his conviction, on the 3rd July, 1973, in respect of the offences of stealing from a dwelling house, contrary to section 266(b) of the Criminal Code, Cap. 154, and of stealing from a locked box, contrary to section 266(g) of Cap. 154. He was sentenced to twelve months' imprisonment.

It was the case for the prosecution that between the 20th December, 1972, and the 17th January, 1973, the Appellant stole £700 from a box which was in a cupboard in the flat where the complainant was residing. The Appellant was, at the time, cohabiting with the daughter of the complainant and they were living in another flat in the same block of flats.

It appears that the Appellant came to know that the complainant was keeping money in the box in question when, on the 20th December, 1972, she took out from the box, in the presence of the Appellant, an amount of money, which she paid to a building contractor, and she then put the box back in the cupboard.

The Appellant was convicted on the basis of the evidence of his mistress—the daughter of the complainant—who stated that on the 3rd January, 1973, she and the Appellant opened the cupboard with a key, which was in her possession, took out the box, forced it open with a knife and took on an amount of £700 which the Appellant took away with him.

The learned trial Judge treated the evidence of the mistress as that of an accomplice and observed in his judgment that

there did not exist other independent evidence amounting to corroboration that the crime had been committed by the Appellant; he, therefore, approached the case as one in which he had to decide whether or not to act on the uncorroborated evidence of an accomplice; and having duly warned himself as to the dangers involved in adopting such a course he decided that it was safe to do so in the particular circumstances of the present case. There can be no dispute that he was entitled, as a matter of law, to proceed as he has done (see, *inter alia, Henry* v. *Manning*, 53 Cr. App. R. 150).

Counsel for the Appellant has submitted that the trial Judge by saying " I feel I can safely act upon it without any corroboration" was not expressing with sufficient certainty the view that the evidence of the accomplice had satisfied him beyond any reasonable doubt. We cannot agree with this submission: As has been pointed out in, *inter alia, Charitonos and Others* v. *Republic* (1971) 2 C.L.R. 40, it does not really matter what particular form of words is used by a trial Court in expressing its view that the evidence before it establishes guilt beyond any reasonable doubt, so long as such a view can be clearly collected from the contents of its judgment, when read as a whole; and we have no doubt that in the present case the trial Judge, when he used the above expression in the course of his judgment—which we have considered as a whole—meant to convey that he had no reasonable doubt about the reliability of the evidence of the accomplice, even though it was uncorroborated.

In *Peristianis* v. *The Police* (1969) 2 C.L.R. 137, the trial Court had reached a verdict of guilty which was certainly open to it on the basis of the uncorroborated evidence of an accomplice and it was held that such verdict could not be disturbed because the Supreme Court saw no reason for doing so; we find ourselves in exactly the same position in dealing with the present case, as the arguments advanced on behalf of the Appellant have not satisfied us that there exists any reason for disturbing the verdict of guilty which was certainly open to the trial Court once it accepted as credible the uncorroborated evidence of the accomplice.

It has been argued in this respect that, because the accomplice was the mistress of the Appellant, she ought to be disbelieved as being of low moral standards; but such a consideration cannot, by itself, and in the absence of any other valid ground, amount to a good reason for disbelieving her evidence.

It was correct that she gave two different versions to the Police; at first she denied any knowledge of the theft, but later she admitted it. We find nothing unnatural about this; she was closely associated with the Appellant and, quite reasonably, her first impulse was to attempt to hide that they had together stolen the money of her mother.

It has been stressed by counsel for the Appellant that the accomplice was in need of money as she was in debt; and, actually, a writ of movables was about to be executed against her; it has been, therefore, argued that it was in fact she who had stolen the money, alone, without the complicity of the Appellant. But from the evidence before us it appears that the Appellant was meeting all the expenses of the accomplice, with whom he was cohabiting; and, indeed, he was giving her money to pay off her debts; so, we fail to see why the indebtedness of the accomplice should have made her steal the £700 on her own rather than together with the Appellant.

Reliance was, also, placed on the fact that, on a previous occasion, the accomplice had taken, while acting on her own, money which was to be found in her mother's cupboard. But it appears that when she told her mother about what she had done her mother took no action against her; so, if the accomplice had stolen, on the present occasion too, the money on her own, without the co-operation of the Appellant, it would be most unnatural behaviour on her part to tell a lie implicating her lover, the Appellant, and incurring thus the risk of an adverse reaction on the part of her mother.

It has, furthermore, been complained by Appellant's counsel that no mention has been made in the trial Judge's judgment that he was impressed by the demeanour of the accomplice while giving her evidence. We do not think that this is a fatal flaw in the judgment, which appears to have been very carefully prepared; it is, of course, true that the demeanour of a witness is a very important factor concerning his credibility but we are not prepared to hold that it is something which has to be expressly referred to every time when a witness is believed.

Having not been satisfied that in this particular case it was in any way unsafe or improper for the trial Judge to treat the uncorroborated evidence of the accomplice as establishing the Appellant's guilt beyond any reasonable doubt we have to dismiss this appeal.

The sentence to run from the date of its imposition.

Appeal dismissed.