[TRIANTAFYLLIDES, P., STAVRINIDES, L. LOIZOU, JJ.]

ANDREAS CHARALAMBOUS,

Appellant,

v.

THE POLICE,

Respondents.

(Criminal Appeal No. 3632).

1975
June 27

ANDREAS CHARALAMBOUS
v.
THE POLICE

Criminal Law—Sentence—Three months' imprisonment for wearing a uniform without authorization—Section 108(a) of the Criminal Code, Cap. 154 (as amended by Law 59 of 1974)—Need to deter others from committing same offence—Sentence, though indeed severe, neither manifestly excessive nor wrong in principle.

Imprisonment—Short sentence of imprisonment—Rule that such sentence inadequate for purposes of deterrence not inflexible—Each case depends on its own particular merits.

The appellant, who had been discharged from the National Guard as a reservist with the rank of 2nd Lieutenant, was on May 30, 1975, seen wearing, in Nicosia, without authorization, the uniform of a Lieutenant of the National Guard. He was convicted of the offence of wearing a uniform without authorization, contrary to s. 108(a) of the Criminal Code, Cap. 154 (as amended by Law 59 of 1974) and sentenced to three months' imprisonment.

In arguing his appeal against sentence his counsel submitted that the sentence passed on the appellant is manifestly excessive and wrong in principle, because it was not suggested by the prosecution that the appellant had put on the uniform in question with a sinister motive; and moreover, he was a first offender.

Held, (1) In the light of the circumstances prevailing in Cyprus today, the sentence imposed on the appellant, though indeed severe, is neither manifestly excessive nor wrong in principle.

(2) All relevant considerations were taken into account by the trial judge and the main factor which influenced him—and quite rightly in a case of this nature—was the need to deter others from committing the same offence; that is why he passed a sentence of imprisonment; and such a course was, on the basis of our case-law in which the relevant principles are expounded, a quite legitimate consideration (see, *inter alia, Mirachis* v. *The Police* (1965) 2 C.L.R. 28 and *Karaviotis* v. *The Police* (1967) 2 C.L.R. 286).

(3) The rule in the *Mirachis* case *(supra)* to the effect that a short sentence of imprisonment is inadequate for purposes of deterrence is not an inflexible rule and that each case depends on its own particular merits.

Appeal dismissed.

Cases referred to :

Mirachis v. *The Police* (1965) 2 C.L.R. 28;

Karaviotis and Others v. *The Police* (1967) 2 C.L.R. 286.

Appeal against sentence.

Appeal against sentence by Andreas Charalambous who was convicted on the 5th June, 1975 at the District Court of Nicosia (Criminal Case No. 11084/75) on one count of the offence of wearing a uniform without authorization contrary to section 108(a) of the Criminal Code Cap. 154 as amended by the Criminal Code (Amendment) Law, 1974 (Law 59/74) and was sentenced by Michaelides, D.J. to three months' imprisonment.

E. Vrahimi (Mrs.) with *C. Velaris*, for the appellant.

Gl. Michaelides, for the respondents.

The judgment of the Court was delivered by :-

TRIANTAFYLLIDES, P. : This is an appeal against the sentence of three months' imprisonment which was passed upon the appellant for the offence of wearing a uniform without authorization, contrary to section 108(a) of the Criminal Code, Cap. 154, as amended by the Criminal Code (Amendment) Law, 1974 (Law 59/74).

The main facts of the case are, briefly, that on May 30, 1975, the appellant, who had been discharged from the National Guard as a reservist with the rank of 2nd Lieutenant, was seen wearing, in Nicosia, without authorization, the uniform of a Lieutenant of the National Guard.

It has been submitted by his counsel that the sentence passed on him is manifestly excessive and wrong in principle, because it was not suggested by the prosecution that the appellant had put on the uniform in question with any sinister motive; and, moreover, he was a first offender.

We take the view that, in the light of the circumstances prevailing in Cyprus today, the sentence imposed on him, though indeed severe, is neither manifestly excessive nor wrong in principle. As it appears from the reasons stated in the decision of the trial judge, all relevant considerations were taken into account by him and the main factor which influenced him—and quite rightly in a case of this nature—was the need to deter others from committing the same offence; that is why he passed a sentence of imprisonment; and such a course was, on the basis of our case-law in which the relevant principles are expounded, a quite legitimate consideration (see, *inter alia*, *Mirachis* v. *The Police*, (1965) 2 C.L.R. 28, and *Karaviotis* v. *The Police*, (1967) 2 C.L.R. 286). We have borne duly in mind that counsel for the appellant has drawn our attention to the fact that in the *Mirachis* case it was pointed out that a short sentence of imprisonment is inadequate for purposes of deterrence; we take, however, the view that this is not an inflexible rule and that each case depends on its own particular merits.

In the light of the foregoing we have to dismiss this appeal.

Appeal dismissed.