

1984 February 16

[A. LOIZOU, MALACHTOS, SAVVIDES, JJ.]

MOHAMED IBRAHIM AHMED APTEL KATER.

Appellant.

v.

THE POLICE.

Respondents.

(Criminal Appeal No. 4489).

Criminal Law—Sentence—Personation—Section 360 of the Criminal Code, Cap. 154—Sentence of 6 months' imprisonment—Neither manifestly excessive nor wrong in principle.

5 The appellant, a sailor from Egypt, pleaded guilty to the offence of personation, contrary to section 360 of the Criminal Code, Cap. 154 and was sentenced to six months' imprisonment. The particulars of the offence were that with intent to defraud a Police Constable did falsely represent himself to be one Sandbad Ahmed Baha Al-Din of Yemen.

10 Upon an appeal against sentence by the appellant Counsel for the respondents stated that he found the sentence as manifestly excessive.

15 *Held:* that the sentence imposed by the trial Court is neither manifestly excessive nor wrong in principle and therefore the appeal must be dismissed.

Appeal dismissed.

Appeal against sentence.

20 Appeal against sentence by Mohamed Ibrahim Ahmed Aptel Kater who was convicted on the 8th December, 1983 at the District Court of Limassol (Criminal Case No. 20948/83) on one count of the offence of personation contrary to sections 360 and 35 of the Criminal Code, Cap. 154 and was sentenced by Fr. Nicolaides, Ag. S.D.J. to six months' imprisonment.

Appellant appeared in person.

25 *R. Gavrielides*, Senior Counsel of the Republic, for the respondents.

A. LOIZOU, J. The Judgment of the Court will be delivered by His Honour Justice Malachtos.

MALACHTOS, J.: The appellant has appealed from prison against his sentence of 6 months' imprisonment by the District Court of Limassol in Criminal Case No. 20948/83 where he pleaded guilty on two counts. The appeal is against count 1 only that on the 4th day of November, 1983, at Limassol in the District of Limassol, the accused, with intent to defraud P.C. 2329 Costas Kakoullis of Limassol, did falsely represent himself to be one Sandbad Ahmed Baha Al-Din of P.D.R. of Yemen, contrary to section 360 and 35 of the Criminal Code, Cap. 154 as amended by Law 4 of 1974.

The appellant is a sailor and comes from Egypt and his name, as it appears on the charge sheet is Mohamed Ibrahim Ahmed Aptel Kater and not Sandbad Ahmed Baha Al-Din. On the 7th July, 1983, the appellant was in Cyprus and was arrested in connection with the investigation of a criminal offence. After the investigations were completed he was released as there was no evidence to support a criminal charge to be preferred against him. However, he was placed on the list of persons prohibited to enter the Republic.

On the 4th November, 1983 the appellant arrived in Cyprus at the Port of Limassol on board the yacht "Ntobe" coming from Tripoli of Lebanon and presented to the Police Constable P.C. 2329 at the point of entry a Yemen Passport under No. 107359 with his photograph affixed therein and bearing as the holder's name that of Sandbad Ahmed Baha Al-Din which passport was issued at Aden on the 4th July, 1983. There and then he stated that he is a student and that he intended to go to Yemen at the first opportunity. The Policeman did not know him and so the appellant was permitted to stay in Cyprus for ten days.

On the 2nd December, 1983 at about 2 o'clock in the afternoon another police constable who is witness No. 1 on the charge sheet visited Filam hotel apartments enquiring about somebody from Yemen. The said witness who knew the appellant personally and also his name when he asked him for his passport the appellant presented to him the false passport which was issued

to him as we have already said in Aden. There and then this police constable arrested the appellant who made a voluntary statement and admitted that this passport was a false one and that he bought it from Tripoli of Lebanon for 1,000 Lebanese pounds. The appellant in mitigation of punishment stated
5 that his only purpose for coming to Cyprus with a false passport was to secure a visa from the embassy of Egypt as he said, in order to go to Egypt, but due to the fact that he was told that it would take a month, this is the reason he stayed in Cyprus.

10 The trial Judge on these facts sentenced the appellant, as we have already said, to six months' imprisonment.

Counsel appearing for the respondents stated today before us that he finds this sentence as manifestly excessive.

15 We must say straight away that we disagree with this submission of counsel. We are of the view that the sentence imposed by the trial Judge is neither manifestly excessive nor wrong in principle and, therefore, we dismiss the appeal.

Appeal dismissed.