

1985 March 20

[A. LOIZOU. DEMETRIADES, LORIS, JJ.]

COSTAS E. ANTONIADES,

Appellant,

v.

THE REPUBLIC,

Respondent.

(Criminal Appeal No. 4576).

5 *Sentence—Possessing a firearm, the importation of which is prohibited contrary to ss. 2 and 3(1)(b), 2(b) of the Firearms Law 38/74 as amended by Law 27/78, possessing a firearm contrary to the same sections and possessing of*
10 *explosive substances without a permit contrary to ss. 2 and 4(1)(e), 4(d) and 5(a)(b) of the Explosive Substances Law Cap. 54 as amended by Law 27/78—Three years' imprisonment on each count, the sentences to run concurrently—In the circumstances there are no reasons for interfering with the sentence.*

15 After a search made on the strength of a judicial warrant the police found in the house of the appellant, a man aged 40, an automatic machine-gun M23/25 of Chechoslovak make, 8 cartridge cases and about 59 rounds of ammunition. The gun belonged to the State but during the summer of 1974 either in the course of the Coup d'etat or during the Turkish invasion it was lost or stolen. The firearm and the ammunition were in good condition and serviceable.

20 As a result the appellant was charged with the above offences each of which carries a maximum penalty of 15 years' imprisonment. The appellant pleaded guilty. In mitigation his counsel said that he possessed the firearm as a souvenir with intention to defend his country, if the
25 need arises, as he did before. In passing sentence the

Assize Court addressed its mind inter alia to the case of *R. v. Gruffyd*, 56 Cr. App. Rep. 585 where it was underlined that good motives do not justify disobedience to the law nor do they render the imposition of imprisonment as being a wrong correctional measure. The Assize Court 5 sentenced the appellant to 3 years' imprisonment on each count, the sentences to run concurrently.

Hence the present appeal:

Held, dismissing the appeal:

(1) This Court has repeatedly stressed the seriousness 10 of offences of carrying or possessing firearms.

(2) This Court does not interfere with a sentence unless it is either manifestly excessive or wrong in principle or no due regard was given to material considerations. In this case there are no reasons justifying such inter- 15 ference.

Appeal dismissed.

Cases referred to:

Athinis v. The Republic (1982) 2 C.L.R. 145;

R. v. Gruffyd, 56 Cr. App. Rep. 585. 20

Appeal against sentence.

Appeal against sentence by Costas E. Antoniadis who was convicted on the 2nd October, 1984 at the Assize Court of Nicosia (Criminal Case No. 14363/84) on two 25 counts of the offence of possessing a firearm the importation of which is prohibited, contrary to sections 2, 3(1)(b), 2(b) of The Firearms Law 38/74 as amended and on one count of the offence of possessing explosive substances contrary to sections 2, 4(1)(e), 4(d) and 5(a)(b) of the Explosive 30 Substances Law, Cap. 54 (as amended by Law 27/78) and was sentenced by Nikitas, P.D.C., Laoutas, S.D.J. and Aristodemou, D.J. to three years' imprisonment on the first count and to two years' imprisonment on each of the other two counts, the sentences to run concurrently.

K. Saveriades with *M. Christodoulou*, for the appellant.

A. Vassiliades, for the respondent.

A. LOIZOU, J. gave the following judgment of the Court.
The appellant was found guilty on his own plea by the
5 Nicosia Assize Court on three counts:

Count 1. Possession of a firearm, the importation of
which is prohibited, contrary to sections 2 and 3(1)
(b), (2) (b), of the Firearms Law 1974, Law No. 38
of 1974, as amended by Law 27 of 1978.

10 Count 2. Possession of a firearm, contrary to sections 2
and 3(1) (b), 2(b) of the same laws.

Count 3. Possession of explosive substance without a
permit, contrary to sections 2 and 4(1) (e) (4) (d)
and (5) (a) (b), of the Explosive Substances Law,
15 Cap. 54, as amended by Law No. 27 of 1978.

The maximum sentence provided by the aforesaid Laws
is imprisonment for fifteen years on each Count. The
sentence imposed was three years imprisonment on the
first and two years imprisonment on the second and third
20 counts the sentences to run concurrently.

This appeal is against the sentence imposed on the ground
that same is manifestly excessive inasmuch as no due
weight was given by the Assize Court to essential mitigating
factors.

25 The facts of the case are briefly these:

The house of the appellant was, on the strength of a
judicial warrant, searched by the Police and there it was
found a firearm, an automatic machine-gun of type M23/25
of Chechoslovak make, '8 Cartridge cases that fit the same
30 gun and about 59 rounds of ammunition that likewise fit
the same gun. The said gun belonged to the State but
during the summer of 1974 either in the course of the Coup
d'etat or during the Turkish invasion it was lost or stolen.
Both the firearm in question and the rounds of ammunition
35 were in good condition and serviceable.

The appellant is forty years of age engaged in the re-

tail of poultry and he is also working at a gambling club. He is divorced from his wife, he lives with his old mother at Ayios Dhometios, the family house in question, and as regards his personal circumstances, the Assize Court had before it a Social Investigation Report prepared by a Welfare Officer. 5

We have had the occasion of repeatedly stressing the seriousness of offences of carrying or possessing firearms and as an indication of their seriousness one may look, to say the least, to the maximum sentence provided by Law in respect of such offences. 10

In the case of *Athinis v. The Republic*, (1982) 2 C.L.R. p. 145, we had this to say at p. 149:

“The recent history of Cyprus is a constant reminder of the bitter price this happy Island and its people have paid through the irresponsible and unlawful possession and use of firearms. Consequently, such offences have to be punished severely by the Courts on which ultimately rests the responsibility for the enforcement of the law and the protection of the State and its citizens from the evils that the commission of such offences and offences connected with their use entail.” 15 20

This holds still good but it may be added that firearms and ammunition in unauthorised hands undermine the law and inevitably paves the way to anarchy. 25

In passing sentence the Assize Court referred expressly to the circumstances of the offence, as well as to the personal circumstances of the appellant. In answer to the contention of counsel that the appellant possessed same as a souvenir and that he had no intention to use it in an unauthorised manner but only to defend his country as he did before, if the need arises, the Assize Court addressed its mind to relevant weighty pronouncements to be found in our Case Law and referred also to the case of *R. v. Gruffyd*, 56 Cr. App. Reports 585, where it was underlined that good motives alone,—even if they were to accept that such motives existed in the case of the appellant,—do not justify the disobedience to the laws, nor do they render the 30 35

imposition of a sentence of imprisonment as being a wrong correctional measure.

We have given due regards to what has been said on behalf of the appellant, but we are afraid we find no reasons justifying interference by this Court on Appeal with the sentences imposed. The primary task in assessing the appropriate sentence has always been on the trial Courts this Court only interfering if the sentence imposed is either manifestly excessive or it is wrong in principle or no due regards was given to material considerations.

For all the above reasons the appeal is dismissed.

Appeal dismissed.