

1988 November 25

(SAVVIDES, KOURRIS, BOYADJIS, JJ.)

HASSAN KHODR HAGE - MOUSSA,

*Appellant,*

v.

THE REPUBLIC,

*Respondent.*

*(Criminal Appeal No. 5001).*

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5 *Sentence — Possessing a pistol contrary to s.4(1)(2)(b) of the Firearms Law, 1974, as amended by Law 27/78, possessing a silencer of a pistol contrary to s.5(2)(3) of the same Law, and possessing explosives (13 live ammunition), contrary to s.4(4)(d) of the Explosive Substances Law, Cap. 54, as amended by Laws 21/70 and 27/78 —*  
10 *Appellant, a Lebanese of 22 years of age, intending to pursue further studies in U.S.A., gave conflicting versions to the police as regards the possession of the pistol, the silencer and the explosives — Four years' imprisonment for the first offence, and two years' for each of the others, sentences to run concurrently — Not manifestly excessive.*

The facts of this case appear sufficiently in the hereinabove headnote.

*Appeal dismissed.*

15 *Cases referred to:*

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

**Appeal against sentence.**

20 Appeal against sentence by Hassan Khodr Hage-Moussa who was convicted on the 26th May, 1988 at the Assize Court of Larnaca (Criminal Case No. 4539/88) on one count of the offence of possessing a pistol without a permit contrary to section 4(1)(2)(b) of the Firearms Law, 1974 (Law No. 38/74), on one count of the offence of possessing a silencer of a pistol contrary to section 5(2)(3) of the above Law and on one count of the offence

of possessing explosives contrary to section 4(4)(d) of the explosive substances Law, Cap. 54 and was sentenced by Nikitas, P.D.C., Kronides, S.D.J. and G. Nicolaou, D.J. to concurrent terms of 4 years' imprisonment on the first count, 2 years' imprisonment on each of the others two counts.

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*St. Righas*, for the appellant.

*A. M. Angelides*, Senior Counsel of the Republic, for the respondent.

SAVVIDES J. gave the following judgment of the Court. The appellant was found guilty on his own plea by the Lamaca Assize Court on the following three counts: 10

1. Possessing a pistol without a permit from the Council of Ministers contrary to s.4(1)(2)(b) of the Firearms Law 1974 (as amended by Law 27/78);

2. Possessing a silencer of a pistol contrary to s.5(2)(3) of the Firearms Law 38/74 (as amended by Law 27/78) and 15

3. Possessing explosives, i.e. 13 live ammunitions without a permit of the Inspector of Explosives, contrary to s.4(4)(d) of the Explosive Substances Law, Cap. 54 (as amended by s.2 of Law 21/70 and s.3 of Law 27/78). 20

The maximum sentence provided by law on the first count is 15 years' imprisonment. The sentence imposed on the appellant was four years' imprisonment from the date of conviction on the first count and two years' imprisonment on each of the other counts to run concurrently. 25

The appellant is 22 years old. He comes from Lebanon and on the 9th May, 1988, he arrived at the Lamaca airport coming from Lebanon. As he stated to the police at the airport, his intention was to stay in Cyprus for a few days and gave them an address in Limassol. He carried with him a sum of one thousand dollars. In the course of checking up of his handluggage by the police and the Customs Authorities they found concealed in a radio and tape recorder the pistol, the silencer and the ammunition in question which were wrapped up in paper. The appellant gave various conflicting versions as to their possession. When cautioned at the airport he said that they did not belong to him but they were given to him at Lebanon to take them to Cyprus. At the police station where he was taken after an eight days remand from the Court, he 30 35

said that he brought the pistol to Cyprus for the purpose of committing robberies; later he said that he brought it for the purpose of selling it and finally in a voluntary statement he said that the pistol was given to him by a friend of his who was working with the Syrian Secret Services for the purpose of carrying it to Cyprus in consideration for the payment of five hundred dollars and facilities for a visa for the U.S.A. where he finally intended to go for studies and delivering it to a person, unknown to him, who would call for it at the Continental Hotel in Limassol.

10 To the probation officer who was assigned to make a report about him, he mentioned that he was the victim of blackmail and fraudulent promises by an illegal organization at Lebanon.

The trial Court took into consideration the mitigating circumstances which were advanced by counsel for the appellant and which were to the effect that he was a young person, he was a student at the University of Beirut and was intending to pursue further studies in the U.S.A., he comes from a reputable family and has a clear criminal record, as well as the report of the probation officer which was before the Court. At the same time the Court drew its attention to the fact that offences of this nature are serious, that use of firearms by unlawful organizations from abroad has been extensively made in Cyprus recently and that guns and ammunition are objects which can disturb the peace in this island and be used for illegal purposes and also the way in which the attempt to import this pistol into the island was made, imposed upon the accused the sentence of four years' imprisonment.

Counsel for the appellant in arguing this appeal contended that there was a misdirection by the Court in that it considered the appellant as a person of hideous personality and that it gave undue weight to this factor and treated it as outweighing the mitigating circumstances. We find ourselves unable to accept such contention. What the Court merely did was to stress the seriousness of offences of this nature without at the same time overlooking the personal circumstances of the appellant.

35 We have heard with care the arguments advanced by counsel for the appellant, in mitigation and especially the young age of the appellant who is 22 years old. But we cannot ignore certain facts which appear in the judgment of the Court and which are of common knowledge in this country, that is, that firearms have been used by unlawful organizations from abroad in Cyprus for

the commission of a number of crimes some of which remained undetected and also the fact that the possession of firearms is a serious offence. The seriousness of offences of this nature has been stressed in the case of *Athinis v. The Republic* (1982) 2 C.L.R. 145 which is one of a series of cases of possession of firearms and in which a sentence of four years' imprisonment imposed by the Assize Court was not disturbed on appeal. At p.149 of that judgment it was stated that: «No doubt: the unlawful possession and use of firearms and ammunitions are serious offences as to say the least they unquestionably undermine the law and pave the way to anarchists, which are the worst enemies of democracy and happy life therein, save and free from fear and intimidation.» And it goes on to refer to the recent history in Cyprus concerning possession of firearms and acts of violence.

It is sad that a person of such a young age as the appellant has to undergo a sentence of four years' imprisonment but, in the circumstances, we have not been convinced that the sentence imposed upon him is manifestly excessive so as to disturb it.

The appeal is, therefore, dismissed.

*Appeal dismissed.* 20