

1988 June 29

(A LOIZOU, P., DEMETRIADES, PIKIS, JJ)

PETROS CHRISTOFIDES PILATOS,

Appellant,

v.

THE REPUBLIC,

Respondent.

(Criminal Appeal No. 4992).

Sentence — Possession of controlled drug (Cannabis resin), supplying it to other persons and using a controlled drug — 18 months', 4 years' and six months' imprisonment respectively — Appellant 23 years old, single — Two other cases involving supply of very small quantities of cannabis resin to third persons taken into consideration — Previous convictions on other not similar offences — Approach of Assize Court gratifying.

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The appellant supplied two young men with a quantity of cannabis resin and took in exchange £70. The circumstances showed that appellant was a well known source of drugs supply. In passing sentence the Assize Court took into consideration two other cases involving supply of small quantities of cannabis resin.

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The appellant, a young man of 23, was burdened with various other previous convictions, in respect of offences, not similar to the aforesaid offences.

Held, dismissing the appeal:

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(1) The most disturbing feature of this case and indeed an aggravating factor is that the supply was available to very young people.

(2) The thought that the trading of narcotics starts taking its direction to local consumption is alarming.

(3) This Court is gratified that the Assize Court approached this case in the right way.

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(4) It is high time that the sentences currently imposed by the Courts for offences of this nature be increased

Appeal dismissed.

Cases referred to:

Makki v. The Republic (1972) 2 C.L.R. 76;

Howell v. The Republic (1972) 2 C.L.R. 111;

Braid and Another v. The Republic (1985) 2 C.L.R. 137;

El-Etri and Others v. The Republic (1985) 2 C.L.R. 40.

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Appeal against sentence.

Appeal against sentence by Petros Christofides Pilatos who was convicted on the 12th May, 1988 at the Assize of Nicosia (Criminal Case No. 8489/88) on one count of the offence of unlawfully possessing controlled drugs contrary to sections 2, 3, 6(1)(2), 6(2)(b) and 30(1)(2)(3) of the Narcotic Drugs and Psychotropic Substances Law, 1977 (Law No. 29/77), on one count of the offence of unlawfully possessing controlled drugs with intent to supply them to others contrary to sections 2, 3, 5(1)(b)(3)(a), 5(3)(b) and 30(1)(2)(3) of the above law and on one count of the offence of using controlled drugs contrary to sections 2, 3, 10(a), 10(b) and 30(1)(2)(3) of the above law and was sentenced by Papadopoulos, P.D.C., Hji Constantinou, S.D.J. and Eliades, D.J. to eighteen months' imprisonment on the first count, four years' imprisonment on count 2, and to six months' imprisonment on count 3, the sentences to run concurrently.

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M. Stamataris, for the appellant.

Gl. Hadjipetou, for the respondent.

A. LOIZOUP. gave the following judgment of the Court. By the present appeal the appellant complains that the sentence imposed by the Assize Court of Nicosia for possession and supply to another person of a controlled drug, namely 5.98 grams of cannabis resin, and also for using such drug contrary to the Narcotic Drugs and Psychotropic Substances Laws, 1977-1983, is manifestly excessive.

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The sentences imposed on the appellant were eighteen months on the first count, four years' imprisonment on the second count and six months' imprisonment on the third count, the sentences to run concurrently.

The circumstances under which the appellant committed the offences in question, for which he pleaded guilty before the Assize Court are briefly the following.

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There were four accused on the Information, all young persons. The first two accused came out of «Mythos» pub in Nicosia, so that the second accused would buy a quantity of cannabis resin of a value of seventy pounds. They met there the third accused and the
5 appellant who was the fourth accused. The appellant agreed to supply the first accused with the quantity he asked and suggested to him that he should go and wait for him in the Municipal Gardens of Nicosia, whilst he himself went on his motor-cycle to Eleonos street in Strovolos and took a quantity of cannabis resin which he
10 had hidden behind a pole near a windmill, and he went to Eleftherias Square. There he gave a quantity of cannabis resin wrapped in an aluminium foil, to the second accused, a young national service man, and the latter opened it and paid to the appellant the sum of seventy pounds. At some stage during that
15 encounter they were seen by third accused going away towards the walls of the city and return some time later holding a lit handmade cigarette from which the three of them were smoking by turn. It contained cannabis resin.

The appellant asked also that two other cases pending in the
20 District Court of Nicosia under Nos 3/1988, 8490/88 be taken into consideration. These cases were in respect of possession and supply to a third person of very small quantities of cannabis resin.

The appellant had the following previous convictions which he admitted.

25 Case No. 1284/84, 8th July, 1983, for conducting himself in a manner likely to cause a breach of the peace, £15 fine.

Case No. 20535/83, 3rd March, 1984, for assaulting a Police Officer in the execution of his duties, and conduct likely to cause breach of the peace. He was sentenced to three months'
30 imprisonment for the assault and two weeks for the misconduct. Four other cases were taken into consideration for causing bodily harm, acts of indecency and misconduct.

Case No. 4797/85, 3rd July, 1985. Affray and conduct likely to cause breach of the peace £60 fine on the first count, £20 fine on the second count. Bound over in the sum of £200 for two years to
35 keep the peace.

Case No. 2008/84, 12th October, 1984, for (1) assault causing actual bodily harm, (2) for failing to produce his identity card, (3) for conduct likely to cause breach of the peace, (4) malicious
40 damage to property, (5) carrying an offensive weapon in order to

terrorize. He was sentenced to nine, one, one, six, and three months' imprisonment respectively, all sentences to run concurrently. In passing sentence four other cases were taken into consideration.

Case No. 29744/85, 27th January 1986, for departing from the Republic without a permit from the Minister of Interior, fifteen days' imprisonment. 5

The appellant is twenty-three years of age, single. He cohabits with a young woman in a rented two-room flat. The other room is occupied by another young woman, a friend. 10

The Assize Court in passing sentence observed that the first two accused who were users of narcotics, knew from where to be supplied and referred to a number of judgments of this Court relating to the sentences imposed in cases involving narcotics, it proceeded to impose the sentences complained of. The cases referred to by the Assize Court are the following. *Makki, Ibrahim H. v. The Republic* (1972) 2 C.L.R. 76; *Michael Howell, v. The Republic* (1972) 2 C.L.R. 111; *Hanzal Mahmoud Braid and Another v. The Republic* (1985) 2 C.L.R. 137; and *Ahmat Ali El-Etri and others v. The Republic* (1985) 2 C.L.R. 40. 15 20

No doubt this is a case where the appellant is obviously known to narcotic users as a source of supply. But the most disturbing feature of this case and indeed an aggravating factor is that the supply was available to very young people. The thought that the supply and trading of narcotics, which so far occupied our Courts, was intended for other countries and other places, now it starts taking its direction to local consumption, is alarming. We are terribly disturbed by this fact and our Courts should show no mercy to those who trade and supply our youth with such kind of disastrous materials. We are gratified that the Assize Court approached this case in the right way. We find no reason whatsoever justifying this Court on appeal, to interfere with the sentence imposed on the appellant. It is high time that the sentences which have been currently imposed by the Courts were considered, generally speaking, to be on the lenient side and that they should be a starting point for an upward increase rather than be considered as a measure of comparison for the imposition of sentences in similar cases. No doubt the quantity and category of narcotics involved have a bearing on the length of the sentence but other factors such as the circumstances and the system followed for the supply and the persons to be supplied are also important factors in 25 30 35 40

determining the appropriate sentence in such cases.

For all the above reasons the appeal fails and is hereby dismissed.

Appeal dismissed.