

1977 July 28

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

THE ATTORNEY-GENERAL OF THE REPUBLIC,

Appellant,

v.

ARGYRO CHRISTODOULOU TRATTOU,

Respondent.

(Criminal Appeal No. 3819).

Criminal Law—Sentence—Publishing information concerning defence works and military installations—Section 50A of the Criminal Code, Cap. 154 (as amended)—Seriousness of the offence—Need to pass a sentence which will act as a deterrent—Mitigating factors—Leniency should be shown to persons who after they have committed a crime have confessed immediately and helped in its investigation for the purpose, too, of enabling the police to trace any accomplices—Sentence of five months' imprisonment—Manifestly inadequate—Increased on appeal by the Attorney-General of the Republic to two years' and three months' imprisonment.

Criminal Procedure—Appeal—Sentence—Appeal against sentence by the Attorney-General of the Republic—Principles upon which the Appellate Court will increase sentence imposed by trial Court.

The respondent communicated to a Turkish Cypriot boyfriend of hers, who previously had been living in Limassol but later on moved to the northern, Turkish occupied, part of Cyprus, information about the measures taken for the defence of the remaining free territory of the Republic. She was convicted on her own plea of the offence of publishing information concerning defence works and military installations and sentenced to five months' imprisonment.

The Attorney-General of the Republic appealed against the said sentence on the ground that it was manifestly inadequate. Counsel for the appellant submitted that the particular cir-

cumstances in which the respondent committed the offence justify the imposition of the maximum sentence of three years' imprisonment.

The only really mitigating feature in the case was the fact that the respondent has made a clean breast to the police by giving a voluntary statement very soon after her arrest and she assisted the police in their investigations with the result that her co-accused was traced. 5

Held, allowing the appeal, that this is a very serious case indeed, which calls both for severe punishment in view of the way in which the respondent has behaved and for a sentence which will be a deterrent to others not to attempt to do what she has done; that the proper, in the circumstances, leniency should be shown to persons who after they have committed a crime have confessed immediately and helped in its investigation, for the purpose, too, of enabling the police to trace any accomplices (see *Philippou & Another v. The Republic* (1976) 7 J.S.C. 1157 at p. 1159); that after giving due weight to the co-operation of the respondent with the police after her arrest, the Court have decided to pass on her a somewhat lighter sentence than what they thought would be appropriate; and that accordingly, bearing in mind the principles upon which the Appellate Court will increase a sentence upon appeal by the Attorney-General (see *Vassiliades and Another v. The Attorney-General of the Republic* (1967) 2 C.L.R. 20) the manifestly inadequate sentence of five months' imprisonment will be increased to one of two years' and three months' imprisonment. 10 15 20 25

Appeal allowed.

Cases referred to:

- Philippou and Another v. The Republic* (1976) 7 J.S.C. 1157 at p. 1159 (to be reported in (1975) 2 C.L.R.); 30
- The Attorney-General of the Republic v. Vassiliades and Another* (1967) 2 C.L.R. 20.

Appeal against sentence.

Appeal by the Attorney-General of the Republic against the inadequacy of the sentence imposed on the respondent who was convicted on the 25th June, 1977 at the District Court of Limasol (Criminal Case No. 11895/77) on one count of the offence 35

of publishing information concerning defence works and military installations contrary to section 50A of the Criminal Code, Cap. 154, as amended by the Criminal Code (Amendment) Law, 1964 (Law No. 41 of 1964) and was sentenced by Anastasiou, D.J. to five months' imprisonment.

A. M. Angelides, Counsel of the Republic, for the appellant.

A. Eftychiou, for the respondent.

The judgment of the Court was delivered by:-

10 TRIANTAFYLLIDES P.: The respondent was sentenced on June 25, 1977, to five months' imprisonment after she had pleaded guilty before a District Judge in Limassol to the offence of publishing information concerning defence works and military installations, contrary to section 50A of the Criminal Code, Cap. 154, as amended by the Criminal Code (Amendment) Law, 1964 (Law 41/64).

The maximum sentence provided for this offence is three years' imprisonment.

20 We think that the respondent should consider herself lucky that she was not charged with a more serious offence involving even more severe punishment.

25 The Attorney-General of the Republic has appealed against the sentence, which was passed upon the respondent, on the ground that it is manifestly inadequate; and counsel for the appellant has submitted that the particular circumstances in which the respondent has committed the offence to which she has pleaded guilty justify the imposition of the maximum sentence of three years' imprisonment.

30 On the other hand counsel for the respondent, though not disputing the seriousness of the offence, has submitted that in view of the personal circumstances of the respondent, as well as of other mitigating, according to him, factors, such as, for example, that no actual damage was caused to the State, since the information which was given by the respondent to unauthorized persons was of very small significance, and that
35 when she was arrested she made a clean breast of the whole affair and assisted the police fully in their investigations, this Court should not intervene in order to increase the sentence imposed on his client.

We have taken carefully into consideration all the above but there can be no escape from the stark fact that the circumstances in which the respondent has committed the offence to which she has pleaded guilty render it one of the most serious of its kind.

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At a time when about 40% of the territory of our Republic is under Turkish military occupation, as a result of foreign aggression, she has communicated to a Turkish Cypriot boyfriend of hers, who previously had been living in Limassol but later on moved to the northern, Turkish occupied, part of Cyprus, information about the measures taken for the defence of the remaining free territory of the Republic, knowing very well that such information was destined to reach the foreign aggressors.

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For the purpose of obtaining this information she offered money to at least two members of the armed forces of our Republic, one being her co-accused in the case before the District Court and the other prosecution witness Michael Georghiou; and, on one occasion, she took with her this witness across the cease-fire line and they met her Turkish Cypriot boyfriend, who subjected this Greek Cypriot soldier to a veritable interrogation; and it is very significant that the respondent was assisting in such interrogation by interrupting in order to observe that the soldier had left out things which he was expected to tell her Turkish Cypriot boyfriend. This despicable conduct of the respondent extended over a period of nearly one and a half years.

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The aforementioned prosecution witness Georghiou was already known to the police before the arrest of the respondent, because very appropriately he had contacted them and informed them in advance of what was happening and on instructions from the police he continued playing the part of an accomplice of the respondent so as to facilitate detection of what was taking place.

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The fact that she acted as she did because of, according to her counsel, her sentimental attachment to her Turkish Cypriot boyfriend is a factor which in our view renders it very likely that the respondent may repeat her crime when she comes out of prison and contacts again, and comes under the influence

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of, her said boyfriend; therefore, in a way it is better for both herself and for the State that she should be detained in prison so as to be kept out of harm's way.

5 We do agree with counsel for the appellant that this is a very serious case indeed, which calls both for severe punishment of the respondent in view of the way in which she has behaved and for a sentence which will be a deterrent to others not to attempt to do what she has done.

10 The only really mitigating feature in the case is the fact that she has made a clean breast to the police by giving a voluntary statement very soon after her arrest and she assisted the police in their investigations with the result that her co-accused was traced.

15 This Court has always taken the view (see *Philippou and Another v. The Republic*, (1976) 7 J.S.C. 1157, 1159*) that it should show the proper, in the circumstances, leniency to persons who after they have committed a crime have confessed immediately and helped in its investigation, for the purpose, too, of enabling the police to trace any accomplices. Having
20 given, therefore, due weight to the co-operation of the respondent with the police after her arrest, we have decided to pass on her a somewhat lighter sentence than what we think would be appropriate and, therefore, bearing in mind the criteria set out in *The Attorney-General of the Republic v. Vasiliotis and
25 another*, (1967) 2 C.L.R. 20, we increase the manifestly inadequate sentence of five months' imprisonment, which was imposed by the trial Court, to one of two years' and three months' imprisonment.

This appeal is, therefore, allowed, as aforesaid.

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Appeal allowed.

* To be reported in (1975) 2 C.L.R.