

1966
Dec. 15

[JOSEPHIDES, STAVRINIDIS, JJ., AND HADJIANASTASSIOU, A.G. J.]

DEMETRIOS
CLEANTHOUS
v.
THE POLICE

DEMETRIOS CLEANTHOUS,

Appellant,

v.

THE POLICE,

Respondents.

(Criminal Appeal No. 2867)

Criminal Law—Sentence Sentence of imprisonment—For the breach of Probation Order Appeal against sentence as being excessive—Appellant a young person—Sentence set aside and substituted with a Probation Order—Juvenile Offenders Law, Cap. 157, section 12 and the Probation of Offenders Law, Cap. 162, section 8 (1) (2) (a).

Sentence—See under “Criminal Law—Sentence” above.

Probation—See under “Criminal Law—Sentence” above.

The appellant, a young person of 15 years, was tried in the District Court of Nicosia for stealing on 4.8.64, at Nicosia, a bicycle, marked “Raleigh” valued at £12, the property of one A.B., contrary to section 262 of the Criminal Code, Cap. 154, and section 12 of the Juvenile Offenders Law, Cap. 157, and after he had pleaded guilty to the said charge, he was placed on Probation for a period of three years.

On the 4th December, 1966, the probationer appeared before a Judge of the District Court of Nicosia—the supervising Court—under section 8 (1) and (2) of the Probation of Offenders Law, Cap. 162, for having failed to comply with the requirements of his probation order: the Court exercising the powers conferred upon it under section 8 (2) (a) of the Law dealt with him as if it had just convicted him for the offence in respect of which the probation order was made and sentenced him to 6 months’ imprisonment. He now appeals against this sentence, on the ground that it is excessive.

In allowing the appeal the Court.

Held. (1) what we think should have been done in this case is, in the first instance, a report to the Court under section 4 of the Probation of Offenders Law, Cap. 162, and the appearance of the probationer before a Judge for some

stern warning. We are not laying this down as a condition precedent to the taking of proceedings under the provisions of section 8 of the law, but we are of opinion that in this particular case this course should have been followed.

(2) Considering that the probationer has been in prison since the 4th November, and that today he has apologized and shown remorse, the Court, with some hesitation, has decided to give him another chance.

(3) We, accordingly, allow the appeal, set aside the sentence of six months' imprisonment, and make a new Probation Order for a period of two years from today.

Appeal allowed.

Appeal against sentence.

Appeal against the sentence imposed on the appellant who was convicted on the 4th November, 1966, at the District Court of Nicosia (Criminal Case No. 5110/64) on one count of the offence of stealing, contrary to section 262 of the Criminal Code, Cap. 154 and section 12 of the Juvenile Offenders Law, Cap. 157 and was sentenced by Stylianides, D.J., to six months' imprisonment.

Appellant, in person.

S. Georgiades, Counsel of the Republic, for the respondents.

The judgment of the Court was delivered by :

JOSEPHIDES, J.: We are of the view that the Probation Officer in this case has done very well in the difficult circumstances that she had to cope with and considering that she took over about seven months prior to the present application to the Court that the probationer be dealt with for breaking the conditions of the probation order. The probationer was a very difficult case and apparently he was not prepared to co-operate.

What we think should have been done in this case is, in the first instance, a report to the Court under section 4 of the Probation of Offenders Law, Cap. 162, and the appearance of the probationer before a Judge for some stern warning. We are not laying this down as a condition

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precedent to the taking of proceedings under the provisions of section 8 of the Law, but we are of opinion that in this particular case this course should have been followed.

Considering also that the probationer has been in prison since the 4th November, and that today he has apologized and shown remorse, the Court, with some hesitation, has decided to give him another chance. We accordingly allow the appeal, set aside the sentence of six months' imprisonment, and make a new Probation Order for a period of two years from today. The probationer shall comply with the following requirements :

- (1) He shall carry out the instructions of the Probation Officer as to his conduct and mode of living and visit or receive visits from the Probation Officer as he or she shall direct and report to him or her forthwith any change of residence or place of work.
- (2) During the period 1st October to 31st May, the probationer shall stay indoors from 8 p.m. every day, except Saturdays, when he may stay out until 10 p.m. ; and, during the period 1st June to 30th September, he shall stay indoors from 10 p.m., except Saturdays, when he may stay out until 11 p.m.

Appeal allowed. Sentence set aside. Probation Order in the above terms.

Order accordingly.