

GEORGHIOS LEANDROU,

Appellant,

GEORGHIOS
LEANDROU
v.

THE REPUBLIC

v.

THE REPUBLIC,

Respondent.

(*Criminal Appeal No. 2810*)

Criminal Law—Sentence—Appeal against sentence as excessive—Carrying a pistol, contrary to sections 4 (1) (2) (a) and 27 of the Firearms Law, Cap. 57, and possessing explosive substances contrary to section 4 (4) (d) of the Explosive Substances Law, Cap. 54—Factors in mitigation—Social Investigation report—Seriousness of offences—Conclusion by Court of Appeal not to increase sentence reached with difficulty—Young age of offender, far from being an excuse for such kind of behaviour, makes the offence more dangerous.

Criminal Procedure—Appeal—Sentence—Appeal against sentence—See above.

Social Investigation Reports—Trial Courts, particularly in dealing with young offenders, should in imposing sentence consider such reports.

Young Offenders—See above under Criminal Law ; Social Investigation Reports.

The appellant was convicted by the Assize Court of Limassol on two counts of the offence of carrying a pistol contrary to sections 4 (1) (2) (a) and 27 of the Firearms Law, Cap. 57 and on one count for possessing explosive substances, contrary to section 4 (4) (d) of the Explosive Substances Law, Cap. 54 and was sentenced to 3 years' imprisonment on each of counts 1 and 2 and to 3 months' imprisonment on count 3, the sentences to run concurrently.

He appealed against sentence mainly on the ground that the trial Court in imposing sentence failed to take into consideration certain factors in mitigation, such as his young age and the fact that at the time of the offence he was under the influence of a common prostitute with whom he had been living.

A social investigation report prepared by a probation officer was made available to the Assize Court, but, apparently, it was not considered.

The Supreme Court in dismissing the appeal

Held, (1) in all circumstances, our difficulty in this appeal is whether this is not a case for increasing the sentence. It is with great difficulty that in the end we reached the conclusion that we should not do so.

(2) Although it seems to us that the Assize Court did impose a lenient sentence we do not think that it can be considered as manifestly inadequate. And we, therefore, decided to dismiss the appeal without increasing the sentence, although we think that the case called for a term of more than three years' imprisonment. Even at the risk of repetition, we must point out again that the punishment provided by law for such offences, is ten years' imprisonment, and that the young age of the offender, far from being an excuse for such kind of behaviour makes the offence more dangerous.

*Appeal dismissed. Sentence
to run according to law
from to-day.*

Per curiam. There is no particular reference in the judgment to the social investigation report, and we are told that this, although available, was not considered. It is difficult for us to accept this position as an accurate description of what took place, as this Court has repeatedly laid stress on the importance of such reports, particularly, in dealing with young offenders.

Appeal against sentence.

Appeal against the sentence imposed on the appellant who was convicted on the 26th January, 1966, at the Assize Court of Limassol (Criminal Case No. 10028/65) on 2 counts of the offence of carrying a pistol contrary to sections 4 (1) (2) (a) and 27 of the Firearms Law, Cap. 57, as amended by Law 11/59 and on one count of the offence of possessing explosive substances without a licence, contrary to section 4 (4) (d) of the Explosive Substances Law, Cap. 54 and was sentenced by Loizou, P. D. C., Malachos & Malyali, D.J.J., to three years' imprisonment on each of counts 1 and 2 and to three months' imprisonment on count 3, the sentences to run concurrently.

V. Tapakoudis, for the appellant

I. Loucardes, Counsel of the Republic, for respondent.

The judgment of the Court was delivered by :

1966
March 3

—
GEORGHIOS
LEANDROU
v.
THE REPUBLIC

VASSILIADES, J.: This is an appeal from a sentence of three years imprisonment imposed by the Assize Court of Limassol on the appellant upon his conviction before them on the 26th of January, 1966, on two counts for carrying a pistol contrary to sections 4 (1) (2) (a) and 27 of the Firearms Law and one count for possessing explosive substances contrary to section 4 (4) (d) of the Explosive Substances Law.

The notice of appeal, signed by the appellant personally at the Central Prisons, soon after his admission there, gives as ground of appeal that the sentence imposed by the Assize Court, is excessive.

Learned counsel for the appellant argued his case before us mainly on the ground that the trial Court, in imposing sentence, failed to take into consideration certain factors in mitigation, such as the young age of the accused and the fact that at the time of the offence he was under the influence of a common prostitute with whom his client had been living. Counsel, moreover, stressed that the appellant has expressed regrets for what happened, realizing now that he had been leading an irresponsible and reprehensible sort of life.

The social investigation report prepared by a probation officer for the information of the Assize Court, indeed, presents a picture of the appellant deserving special attention. He is well depicted there as a young man of unstable and irresponsible character.

Fully realizing the difficulties in the case which counsel for the appellant had to handle, we gave the matter the attention and sympathy which it deserved. And after hearing what counsel had to say, we found it unnecessary to call on the other side.

In their concise but clear and well-balanced judgment, the Assize Court describe sufficiently the seriousness of the offences for which their duty called them to pass sentence on the appellant. The courts have given in the past, ample and repeated warning for the dangers resulting from the unlawful carrying of such firearms. They have pointed out that the sentence provided by law is one of long imprisonment and heavy fine ; and they have imposed sentences which should make all persons concerned, realize the existence of such dangers. Unfortunately, these offences still continue to be prevalent ; and this makes it necessary for the courts to deal with them with more severity.

The judgment of the Assize Court also shows that proper consideration was given to whatever was said in mitigation. There is no particular reference in the judgment to the social investigation report, and we are told that this, although available, was not considered. It is difficult for us to accept this position as an accurate description of what took place, as this Court has repeatedly laid stress on the importance of such reports ; particularly in dealing with young offenders. In any case, having now carefully considered the report ourselves, we find very little in it which can be of assistance to the appellant. If anything, it confirms his unstable and irresponsible character.

In all circumstances, our difficulty in this appeal is whether this is not a case for increasing the sentence. It is with great difficulty that in the end we reached the conclusion that we should not do so. Although it seems to us that the Assize Court did impose a lenient sentence, we do not think that it can be considered as manifestly inadequate. And we, therefore, decided to dismiss the appeal without increasing the sentence, although we think that the case called for a term of more than three years' imprisonment. Even at the risk of repetition, we must point out again that the punishment provided by law for such offences, is ten years' imprisonment ; and that the young age of the offender, far from being an excuse for such kind of behaviour, makes the offence more dangerous.

This appeal is dismissed. The sentence imposed by the Assize Court to run according to law, from today.

*Appeal dismissed. Sentence
to run according to law.*