

ARTEMIS ANDREA THEODOULOU,
Appellant,
v.
THE POLICE,
Respondents.

ARTEMIS
ANDREA
THEODOULOU
v.
THE POLICE

(*Criminal Appeal No. 3042*)

Criminal Law—Sentence—Criminal trespass contrary to section 280 of the Criminal Code, Cap. 154—Sentence of nine months' imprisonment—Not excessive in the circumstances of the case—Sentence of imprisonment—Principles applicable.

Sentence—Sentence of imprisonment—Principles applicable—See, also, above.

Criminal Trespass contrary to section 280 of the Criminal Code—Sentence—See above.

Trespass—Criminal Trespass—Sentence—See above.

Sentence—Appeal against sentence—See above.

Appeal—Against sentence—See above.

On the facts of this case—which fully appear in the judgment of the Court—the Supreme Court held that a term of imprisonment of nine months was not excessive and dismissed the appeal.

Appeal against sentence dismissed.

Cases referred to :

Karaviotis and others v. The Police (1967) 2 C.L.R. 286;

Kepsis v. The Police (1968) 6 J.S.C. 666 ;

Nicos Demetriou v. The Police (reported in this Part at p. 127 *ante*).

Appeal against sentence.

Appeal against sentence by Artemis Andrea Theodoulou who was convicted on the 26th September, 1968 at the District Court of Famagusta (Criminal Case No. 4119/68) on two counts of the offences of trespass and insult contrary to sections 280 and 99 of the Criminal Code, Cap. 154, respectively, and was sentenced by S. Demetriou, D.J., to 9 months' imprisonment on the trespass count and to 15 days' imprisonment on the insult count, the sentences to run concurrently.

E. Emilianides, for the appellant.

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

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The judgment of the Court was delivered by :

VASSILIADES, P. : This is an appeal against a sentence of nine months' imprisonment imposed on the appellant in the District Court of Famagusta upon conviction for criminal trespass under section 280 of the Criminal Code (Cap. 154). The appeal was taken on the ground that the sentence imposed is manifestly excessive, in the circumstances of the offence.

The facts are simple ; and have hardly been contested. When the appellant, a young mechanic of the age of 23, came home at about midday on May 5, 1968, he was informed that some time earlier that morning, his sister had been requested to reduce the sound volume of the loud-speaker of a record playing apparatus in the house. The request came from the wife of a sick neighbour across the road, through her son.

Appellant's sister readily complied with the request, without any objection. But, apparently, the appellant took offence when he heard about it. He went to the neighbour's yard and calling the wife remonstrated with vulgar and insulting language.

The wife explained that her husband was very sick ; and that the request had been duly and politely made. But the appellant continued shouting and insulting ; and when the wife asked him to leave her yard, the appellant became furious, jumped into the sick man's bedroom through the window causing a violent and terrorising scene which the trial Judge described as most disgusting. The wife screamed for help, and the appellant left, still threatening and insulting. The sick man, aged 59, gave evidence regarding his condition on that morning and his terror at the scene.

The appellant conducted his own defence. He suggested that the sick man's wife turned him out with a gun. And confined his case to a statement from the dock that he " may have made a mistake ". No regret or apology of any kind, before the trial ; except for a formal one in Court.

The trial Judge noted that the appellant was a first offender with a wife and four children. But he was of the opinion that in the circumstances, the proper punishment would be a term of imprisonment ; and passed a sentence of nine months for the criminal trespass and two weeks concurrently, for the public insult.

Learned counsel for the appellant strenuously argued that in the circumstances the sentence was manifestly excessive. We have not been persuaded that this is so. (See *Karaviotis and Others v. The Police* (1967) 2 C.L.R. 286 at p. 291; *Kepsis v. The Police* (1968) 6 J.S.C., p. 666; *Nicos Demetriou v. The Police*, (reported in this Part at p. 127 *ante*). Unfortunately the most effective deterrent for violence of this arrogant and brutal kind, is institutional discipline for some time ; indeed for sufficient time to create a lasting effect. And also to set a warning example to other young men inclined to use their physical strength for terrorising other people.

We appreciate the humanitarian force of the submission that the sentence will cause considerable suffering to the wife and four minor children of the appellant ; a wife who is a foreigner in this country with no relations here to help her. But this humanitarian aspect of the case cannot stand in the way of duly enforcing the law for the protection of people in their home against violence of this kind. The Welfare Services of the State will, no doubt, take due care of appellant's family ; and kind people in the community, including probably the complainants themselves, will do their part.

Considering, however, the severity of the sentence imposed, we decided to make directions under section 147 (1) of the Criminal Procedure Law (Cap. 155) for the sentence to run from the date of conviction.

Appeal dismissed. Sentence affirmed ; to run from conviction.

Appeal dismissed.

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