

MINAS LAZAROU (No. 2),

Appellant,

v.

THE POLICE,

Respondents.

MINAS
LAZAROU
(No. 2)
v.
THE POLICE

(*Criminal Appeal No. 3077*).

Criminal Procedure—Appeal—Appeal against conviction—Sentence—Three weeks' imprisonment—Appeal given priority in view of short period of imprisonment—Withdrawn on day of hearing—Frivolous appeal—Observations on counsel's conduct—Sentence to run from conviction—Criminal Procedure Law, Cap. 155 section 147(1)—Main object of section to discourage frivolous appeals—But appellants should not be made to suffer for the conduct or mistakes of their counsel.

Advocate—Advocate's conduct in the present case disapproved.

The facts sufficiently appear in the judgment of the Court.

Appeal against conviction.

Appeal against conviction by Minas Lazarou who was convicted on the 31st January, 1969, at the District Court of Nicosia, sitting at Morphou (Criminal Case No. 4172/68) on two counts of the offences of public insult and disturbance contrary to sections 99 and 95, respectively, of the Criminal Code, Cap. 154, and was sentenced by HjiConstantinou, D.J., to three weeks' imprisonment on each count, the sentences to run concurrently.

E. Vrahimi (Mrs.), for the appellant.

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

The judgment of the Court was delivered by :—

JOSEPHIDES, J.: In this case the appellant was tried before the District Court, sitting at Morphou, on three charges as follows : aggravated assault, public insult and disturbance. After a long and protracted hearing, lasting over four days, the trial Judge in a long and careful judgment gave his verdict. He gave the benefit of doubt to the appellant on the first count and acquitted him, and found him guilty on the other two counts, and imposed a sentence of three weeks imprisonment, on each count concurrently, from the 31st January, 1969. This sentence was imposed having regard to 13 previous convictions of a similar nature.

1969
Feb. 14
—
MINAS
LAZAROU
(No. 2)
v.
THE POLICE

Five days later, on the 5th February, appellant's counsel, Mrs. Eleni Vrahimi, who defended him before the trial Court, filed an appeal against conviction together with an application to this court for bail pending the hearing of the appeal. That application was supported by an affidavit sworn by the advocate herself. This Court, realising the urgency of the matter, fixed the application for bail on the 7th February, heard counsel on both sides and dismissed it*; but at the same time the court, feeling that it had a duty to hear the appeal without any avoidable delay, gave instructions to have the record prepared at once and, in fact, top priority was given and the record was prepared by the 11th February. The appeal was fixed for today, the 14th February, after the court had taken off the list other appeals fixed for today to give priority to the present appeal in order that it should be heard and determined before the expiry of the appellant's sentence of three weeks. This morning, however, Mrs. Vrahimi appearing on behalf of the appellant, informed us that she had instructions to withdraw the appeal.

What we have to consider now is whether we should dismiss the appeal and order that the sentence shall run from the date of conviction or make no order, in which case, under the provisions of section 147 (1) of the Criminal Procedure Law, Cap. 155, the sentence will run as from today. Undoubtedly, the main object of that section is to discourage frivolous and groundless appeals. All members of this court, having read the record and having spent hours over this appeal, in priority over other work, are unanimously of opinion that this is a frivolous appeal without any merit whatsoever, either in law or fact ; and it is surprising that an application for bail was made and the present appeal lodged and pressed on by counsel until this morning. It is, we think, our duty to express our strong disapproval of counsel's conduct in the present case. Nevertheless, we have to bear in mind that appellants or accused persons should not suffer for the conduct or mistakes of their counsel. Particularly in the present case we have to bear in mind also that the imprisonment of three weeks is adequate punishment for the offences committed by the appellant. In these circumstances, with great difficulty, we have decided to order that the sentence shall run from the date of conviction.

The appeal is dismissed and the sentence to run from the date of conviction.

Appeal dismissed. Sentence to run from the date of conviction.

* Vide p. 53 in this Part *ante*.