VERONIKI ANDREOU,

Appellant,

v.

THE POLICE,

Respondents.

(Criminal Appeal No. 3078).

Sentence—Fine and binding over for taking part in a fight in a public place—The Criminal Code Cap. 154 *section* 89*—No reasons for sentence stated on record—Sentence manifestly excessive—Fine set aside.*

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

Criminal Procedure—Plea—Plea on more than one count—To be clearly connected with each count in the charge—Record of trial, particularly regarding conviction and sentence, should be sufficient to enable a party aggrieved to challenge the conviction or sentence before the Court of Appeal—And to enable this Court to deal with the matter—Reasons for sentence must be given.

Plea—Plea on more than one count to be clearly connected with each count in the charge—See above.

Reasons—Reasons for sentence to be given—See above.

Record of criminal proceedings—Should be adequate—See above.

Trial in Criminal Cases—Plea—Record of proceedings—See above.

The facts sufficiently appear in the judgment of the Court.

Appeal against sentence.

Appeal against sentence by Veroniki Andreou who was convicted on the 25th January, 1969, at the District Court of Famagusta on two counts of the offences of affray and disturbance contrary to sections 89 and 95, respectively, of the Criminal Code Cap. 154 and was sentenced by S. Demetriou, D.J. to pay a fine of £20 and she was further

bound over in the sum of £50 for two years to keep the peace and be of good behaviour on the first count and no sentence was passed on her on the second count.

M. Papas, for the appellant.

A. Frangos, Senior Counsel of the Republic, for the respondents.

The judgment of the Court was delivered by :—

VASSILIADES, P. : This is an appeal against sentence, on the ground that it is manifestly excessive, in the circumstances. The appellant was sentenced by the trial Court to £20 fine coupled with a bond in the sum of £50 to keep the peace for two years, on a charge of taking part in a fight in a public place, contrary to section 89 of the Criminal Code. The sentence provided in the section is one year imprisonment ; but under section 29 of the Criminal Code, where an offence is punishable with imprisonment, the court may impose a fine instead of imprisonment, for any amount not exceeding that which the Court is empowered to impose ; in this case not exceeding the amount of £500.

The facts of the case, as far as they appear from the record, are that the appellant got involved in a fight in a village street, with the other accused in the case, a girl just under 16 years of age. Apparently, according to the statement made by the prosecuting officer, there was some provocation on the part of the other accused regarding her child, a boy of four, which the appellant had with her at the time. The record as regards the facts is rather flimsy. But what makes the matter before us still more difficult is the absence of the Judge's reasons for the sentence imposed.

There were two counts in the charge, against both accused ; one for taking part in a fight and the other for public disturbance. The Judge recorded a plea of guilty, presumably by both accused to both counts. But this should not have to be presumed in a criminal case. It is important that the plea should be clearly connected on the record with each count in the charge. As the record reads, it seems that the learned trial judge considered that the plea of guilty went to both counts. But then the statement of the facts by the prosecuting police officer does not show whether both counts rested on the same facts. Surely in such a case something more was necessary to explain why those two persons, after being convicted for their conduct on the first count, should also be convicted on the second count,

apparently resting on exactly the same facts. That should appear on the record so that this Court can follow the Judge's reasoning.

The judge then proceeded to impose sentence first on the second accused (the appellant herein) £20 fine on the first count ; and then on the first accused £15 fine on the second count. This, in the circumstances, appears to me at least, rather strange. Why this cross-puzzle ? Then both accused were bound over for two years to keep the peace. And finally the judge writes: " I pass no sentence on count 2"; apparently meaning the second accused as he had already sentence the other accused on that count. This court has time and again said that the record, particularly regarding conviction and sentence, should be sufficient to enable a party agrieved to challenge the conviction or sentence before the Court of Appeal ; and to enable the Court of Appeal to deal with the matter.

In this case we do not have before us any appeal from the other accused ; and, therefore, her case is not before us. But this cannot prejudice the position of the appellant who for taking part in this sort of fight, received a sentence of £20 fine which, counsel for the Republic, very frankly and fairly stated that it is rather unusual ; and he did not feel inclined to support it. It was a sentence on a young woman with no previous convictions ; and the medical reports filed and now found on the record, show that really there was nothing serious in that fight. Both persons were examined by a medical officer on that same day. Nothing was found on the younger woman ; and no external injuries were found on the appellant who seems to have got the worse in that encounter.

In the circumstances, we find that there is nothing in the judgment and nothing on the record to justify the sentence imposed ; and we must hold it to be manifestly excessive. In the circumstances of this case, we think that the binding over order would be a sufficient sentence. We set aside appellant's fine entirely.

As regards the other accused, the matter is not before us. But the matter may be raised before the proper authority, where Mr. Frangos has already told us that he intends to act regarding that part of the case, as fairly and as justly as he has acted in the part regarding the appellant.

Appeal allowed. Sentence on the appellant, on count 1, varied accordingly. No sentence on the second count.

Appeal allowed ; sentence varied.