

1971  
Nov. 5

[HADHANASTASSIOU, A. LOIZOU, MALACHTOS, JJ.]

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GEORGHIOS  
ERACLIS  
v.  
THE  
MUNICIPALITY  
OF NICOSIA

GEORGHIOS ERACLIS,

*Appellant,*

v.

THE MUNICIPALITY OF NICOSIA,

*Respondents.*

(*Criminal Appeal No. 3276*).

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*Sentence—Appeal against sentence of fine for hawking within the Municipal limits and for possessing for use for trade false or unjust weight—Section 164(1) and (4) of the Municipal Corporations Law, Cap. 240 (as re-enacted by s. 163 of the Municipal Corporations Law, 1970, (Law 89/70)) and s. 14 of the Weights and Measures Law, Cap. 104—Sentence not excessive in the circumstances of the case—Appeal dismissed.*

*Weights and Measures—Possessing for use for trade false or unjust weight—Section 14 of the Weights and Measures Law, Cap. 104—Sentence—See under Sentence above.*

*Hawking—Within the Municipal limits—Section 164(1) and (4) of the Municipal Corporations Law, Cap. 240 (as re-enacted by s. 163 of the Municipal Corporations Law, 1970 (Law 89/70))—Sentence—See above under Sentence.*

*Observations with regard to the inadequacy of the sentence provided for offences under s. 14 of the Weights and Measures Law, Cap. 104.*

### **Appeal against conviction and sentence.**

Appeal against conviction and sentence by Georghios Eraclis who was convicted on the 30th July, 1971 at the District Court of Nicosia (Criminal Case No. 9649/71) on two counts of the offences of hawking within the municipal limits contrary to section 164(1) and (4) of the Municipal Corporations Law, Cap. 240, as re-enacted by s. 163 of the Municipal Corporations Law, 1970 (Law 89 of 1970) and of having in his possession for use for trade false or unjust weight contrary to section 14 of the Weights and Measures Law, Cap. 104 and was sentenced

by Kourris, D.J. to pay a fine of £1.- on the first count and £2.- on the second count and he was further ordered to pay £2.750 mils costs of prosecution.

Appellant appeared in person.

C. *Indianos*, for the Respondents.

The judgment of the Court was delivered by:-

HADJIANASTASSIOU, J.: The Appellant in this case was convicted at Nicosia District Court on July 30, 1971, having pleaded guilty to a charge containing two counts, *viz.*, hawking within the municipal limits contrary to the provisions of s. 164(1) and (4) of the Municipal Corporations Law, Cap. 240, as re-enacted by s. 163 of the Municipal Corporations Law, 1970; (Law 89/70); and of having in his possession for use for trade false or unjust weight, *viz.*, half an oke of 19 drams less, contrary to s. 14 of the Weights and Measures Law, Cap. 104, and was sentenced to pay a fine of £1 on count 1 and £2 on count 2 respectively, with £2.750 costs.

The Appellant in mitigation, as the record of the trial Court shows, regarding count 2 only said "I am sorry, I bought it like this and I did not know if it was defective".

The Appellant who appears in person, now appeals to this Court on a number of grounds, but he mainly argued that the sentence imposed upon him (a) is manifestly excessive, and (b) that the Municipality of Nicosia wrongly did not renew his licence as a hawker for the year 1971.

The Appellant who is married and has a family of six children, has been carrying on the occupation of a hawker within the municipal limits of Nicosia for a period of 15 years prior to this offence. On June 18, 1971, he was caught selling apricots within the municipal limits without obtaining a licence from the council.

We have listened carefully to the complaint of the Appellant, but we take the view that, the sentence imposed upon him by the trial Court is not manifestly excessive under these circumstances. In our opinion, the Appellant, by using false or unjust scale for trade, committed an act which should not be encouraged by small fines, since it almost amounts to cheating every member of the public to whom the Appellant

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was selling apricots. Had it not been for the provisions of s. 14 of our law, which provides that the Court is empowered to impose only a fine not exceeding £2, we certainly take the view that, the Appellant deserved to have been punished with a larger fine. We think that we can take this opportunity to bring to the notice of the responsible authority that a maximum fine of £2 for acts of this nature does not meet the realities of the present day conditions in Cyprus. Cf. The Weights and Measures Act, 1878, s. 25, which provides for a fine not exceeding five pounds, and in the case of a second offence ten pounds.

Regarding the first count, the Appellant did not press his complaint as to the fine, but from his argument, we understood him as saying that the main reason for bringing this appeal was that he wanted to bring to the attention of this Court that the municipal council did not give him any reasons for failing to renew his licence as a hawker.

Since the Appellant was unrepresented, and because he has filed a recourse against the refusal of the municipal council to renew his licence, we think that in these circumstances, and because this point has nothing to do with the charge under which he was convicted, we need not say anything more, but dismiss the appeal without making an order for costs, since counsel for the Respondents quite fairly did not ask for an order for costs.

*Appeal dismissed.*