

1973  
June 12

[TRIANTAFYLIDES, P., A. LOIZOU, MALACHTOS, JJ.]

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NICOS  
KYRIACOU  
MILIOTIS  
v.  
THE POLICE

NICOS KYRIACOU MILIOTIS,

*Appellant,*

v.

THE POLICE,

*Respondents.*

(Criminal Appeal No. 3445).

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*Parking meters and obligation to pay fees for parking—Famagusta Municipal (Traffic) Bye-Laws, 1953–1972—Not unconstitutional—Nothing unconstitutional in regulating reasonably the right to move in, and to use, public places in a manner consistent with the rights and needs of others.*

*Punishment—Must be proportionate to the gravity of the offence—Article 12.3 of the Constitution—Does not apply to the mode of assessing sentence in the light of the circumstances of any individual case.*

*Famagusta Municipal (Traffic) Bye-Laws, 1953–1972—Parking meters etc.—Constitutionality—See supra.*

*Constitutional Law—Punishment—Should not be disproportionate to the gravity of the offence—Article 12.3 of the Constitution—Scope and effect—See supra.*

*Constitutional Law—Public places—Right to move in, and use, public places—May be reasonably regulated—Parking meters etc.—See supra.*

The Appellant was found guilty of failing to insert the prescribed coin of 25 mils in a parking meter, contrary to the relevant provisions of the Famagusta Municipal (Traffic) Bye-Laws 1953–1972 and was ordered to pay a fine of £3.— He appealed both against conviction and sentence.

*Held, (1).* The provisions of the Famagusta Municipal (Traffic) Bye-Laws, 1953–1972 providing for the installation of parking meters and for the obligation to pay fees for parking because of the existence of such meters are not unconstitutional.

(2) There is nothing unconstitutional in regulating reasonably the right to move in, and to use, public places in a manner consistent with the rights and needs of others (see, by way of useful comparison, *Morphou Gendarmerie and Michael*, 2 R.S.C.C. 103, and *Police and Liveras*, 3 R.S.C.C. 65).

*Held: As regards the sentence of £3:*

Article 12.3 of the Constitution, which prohibits provisions for "a punishment which is disproportionate to the gravity of the offence", does not apply at all to the mode of assessing sentence in the light of the circumstances of any individual case; it is, merely, intended to exclude legislative provisions laying down punishments disproportionate to the offences in respect of which they have been prescribed.

*Appeal dismissed.*

Cases referred to:

*Morphou Gendarmerie and Michael*, 2 R.S.C.C. 103;

*Police and Liveras*, 3 R.S.C.C. 65.

**Appeal against conviction and sentence.**

Appeal against conviction and sentence by Nicos Kyriacou Miliotis who was convicted on the 25th April, 1973, at the District Court of Famagusta (Criminal Case No. 838/73) on one count of the offence of failing to insert the prescribed coin of 25 mils in a parking meter contrary to sections 11(1) and 16 of the Famagusta Municipal (Traffic) Bye-Laws, 1953-1972 and was sentenced by Artemis, Ag. D.J. to pay a fine of £3.-.

Appellant appeared in person.

*N. Charalambous*, Counsel of the Republic, for the Respondents.

The judgment of the Court was delivered by:-

TRIANAFYLLIDES, P.: The Appellant was found guilty of failing to insert the prescribed coin of 25 mils in a parking meter, contrary to the relevant provisions in the Famagusta Municipal (Traffic) Bye-Laws, 1953-1972. He was ordered to pay a fine of £3.

The Appellant has contended in this appeal that to the extent to which the above Bye-Laws make provision for the installa-

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tion of parking meters, and for the obligation to pay fees for parking because of the existence of such meters, they are unconstitutional. We find no merit whatsoever in this contention; there is nothing unconstitutional in regulating reasonably the right to move in, and to use, public places, in a manner consistent with the rights and needs of others (see, by way of useful comparison, *Morphou Gendarmerie* and *Michael*, 2 R.S.C.C. 103, and *Police and Liveras*, 3 R.S.C.C. 65).

The Appellant has argued, too, that the sentence imposed on him is unconstitutional, as being contrary to Article 12.3 of the Constitution which prohibits providing by law for “a punishment which is disproportionate to the gravity of the offence”. Article 12.3 is intended, in our opinion, to exclude the existence of statutory provisions laying down punishments disproportionate to the offences in respect of which they have been prescribed and such Article does not apply at all to the mode of assessing sentence in the light of the circumstances of any individual case.

In the result this appeal fails and is accordingly dismissed.

*Appeal dismissed.*