

1973

Nov. 9

[TRIANTAFYLLIDES, P., STAVRINIDES, L. LOIZOU, JJ.]

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CHARALAMBOS
IACOVOU
GALATIS
v.
THE REPUBLIC

CHARALAMBOS IACOVOU GALATIS,

Appellant,

v.

THE REPUBLIC,

Respondent.

(*Criminal Appeal No. 3513*).

Sentence—Appeal against sentence by the convict—Sentence of three years' imprisonment increased to one of four years' imprisonment—Defiling a girl under the age of thirteen—Section 153 (1) of the Criminal Code, Cap. 154—Appellant with a long criminal record—Need to keep persons such as the Appellant away from society—And need for a severe punishment so that it can serve as a deterrent—Sentence increased as aforesaid.

Defilement of a girl under thirteen—Section 153 (1) of the Criminal Code Cap. 154—Sentence of three years' imprisonment—Increased on appeal to one of four years' imprisonment.

The facts sufficiently appear in the judgment of the Court, whereby dismissing this appeal against sentence it thought fit to increase it.

Appeal against sentence.

Appeal against sentence by Charalambos Iacovou Galatis who was convicted on the 3rd October, 1973 at the Assize Court of Nicosia (Criminal Case No. 10670/73) on one count of the offence of defilement of a girl under thirteen years of age contrary to section 153(1) of the Criminal Code, Cap. 154 and was sentenced by Demetriades, P.D.C., Papadopoulos, S.D.J. and Anastassiou, D.J. to three years' imprisonment.

D. Papachrysostomou, for the Appellant.

C. Kypridemos, Counsel of the Republic, for the Respondent.

The judgment of the Court was delivered by:—

TRIANTAFYLLIDES, P.: The Appellant, having been sentenced

to three years' imprisonment, on the 3rd October, 1973, by an Assize Court in Nicosia, after he had pleaded guilty to the offence of defiling a girl under the age of thirteen years, contrary to section 153(1) of the Criminal Code, Cap. 154, has appealed against the said sentence as being excessive.

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The salient facts of the case are that over a period between the 1st March and the 26th June, 1973, the Appellant, at the village Neon Ambelikou, was having regularly sexual intercourse with the complainant.

It has been contended by counsel for the Appellant—who has done his very best in a difficult case—that a letter written by the Appellant to the mother of the girl, on the 16th July, 1973, was wrongly described by the trial Court, in assessing sentence, as “an impertinent act” on his part, and that, instead of being treated as a factor against him, it should have weighed in his favour, in mitigation of sentence, because by the said letter the Appellant tried, as stated by his counsel, “to explain frankly” to the mother of the girl what had happened.

There are, indeed, passages in that letter which could be described as impertinent; and we do think that the real motive for writing that letter was that the Appellant knew, or had reasons to fear, that his relations with the girl had been or were about to be discovered and consequently there might be reprisals against him by her family; so, in an effort to avoid such a predicament he tried to placate the mother of the girl by writing the letter. His said motive is clear, not only from a passage in the letter where he states that if it is thought that he is to blame the best thing would be to let the law take care of the matter, but, also, from the fact that in a statement given to the police he said that he was afraid that the parents of the girl would kill him and that he was planning to run away from Limassol. We, therefore, do not think that there has been established in this respect any error of the trial Court of a material nature.

The Appellant has a long criminal record, though it is true that it does not appear that he has committed any similar offence in the past. He is approximately forty-one years old, he is married, but living apart from his wife, and he has no children. When he was formally charged he gave the very cynical and callous reply that he had been enticed by the girl; and yet he was more than three times older than the girl.

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The law provides a maximum sentence of life imprisonment for an offence of this nature, and the trial Court, in passing sentence, put correctly the accent on the need to keep a person such as the Appellant away from society.

We agree with this approach, but we, also, think that this is a case where the Appellant should be punished severely so that his punishment can serve as a deterrent for others. Without wanting to be too harsh we cannot accept that anything less than four years' imprisonment, from today, would be a proper sentence.

The appeal is, therefore, dismissed, but the sentence is increased as above.

Appeal dismissed.