

YIANNAKIS KYRIACOU MANIKAS,

*Appellant,*

v.

THE POLICE,

*Respondents.*

(*Criminal Appeal No. 3392*).

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*Sentence—Fifteen months' imprisonment for stealing—Sections 255 and 262 of the Criminal Code, Cap. 154—Appeal against sentence—Appellant's young age (23), but bad criminal record—Social investigation report—Appellant a misfit due to a very unfortunate childhood—His wife prepared to stand by him and help him—Now responding better than ever before to the institutional treatment in prison—Sentence reduced to one of nine months' imprisonment.*

*Stealing—Sentence—Reduced on appeal—See supra.*

*Young offenders—Social Investigation Report—Institutional treatment in prison—See supra.*

*Institutional treatment in prison—See supra.*

*Social Investigation Report—Need for such report whenever a Judge contemplates sending to prison a young offender.*

The facts sufficiently appear in the judgment of the Court, allowing this appeal against sentence.

**Appeal against sentence.**

Appeal against sentence by Yiannakis Kyriacou Manikas who was convicted on the 27th November, 1972 at the District Court of Nicosia, sitting at Morphou (Criminal Case No. 6598/72) on two counts of the offence of stealing contrary to sections 255 and 262 of the Criminal Code, Cap. 154 and was sentenced by Hji Constantinou, D.J. to fifteen months' imprisonment on count 1 and one month's imprisonment on count 2, the sentences to run concurrently.

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*Ch. Loizou*, for the Appellant.

*A. Frangos*, Senior Counsel of the Republic, for the Respondents.

The judgment of the Court was delivered by:—

TRIANAFYLLIDES, P.: The Appellant has appealed against sentences of imprisonment, for terms of fifteen months and one month respectively, which were passed upon him when he was convicted, on his own plea, of the offences of stealing on the 22nd November, 1972, a motorcycle and of stealing the petrol in the tank of such motor-cycle.

He appeared before the Court below without defending counsel; he said nothing in mitigation; in passing sentence the trial Judge took into consideration two sets of other offences which were committed by the Appellant, the one set being connected with the stealing of the motor-cycle on the 22nd November, 1972 (namely, driving the motor-cycle without being the holder of a driving licence, using it without having in force a policy in respect of third party risks, and taking and driving it away without the consent of its owner) and the other set relating to another motor-cycle, on an earlier occasion, on the 19th July, 1972 (namely driving such motor-cycle without being the holder of a driving licence, using it without having in force a policy in respect of third party risks, taking and driving it away without the consent of its owner, using it without having a motor-vehicle licence, and using it without having a road-worthiness certificate).

The Appellant, who is twenty-three years old, and has been married a few years ago, has a bad criminal record; since 1968 he has been sent to prison on three occasions for offences involving dishonesty.

When he first appeared before us in connection with the present appeal, on the 26th January, 1973, he applied for legal aid, stating that he did not have the means to instruct counsel, and such aid was granted; we, also, ordered the preparation of a social investigation report about him.

We feel that we ought to stress that a social investigation report should have been asked for by the trial Judge himself; he had before him a relatively young person who had said nothing at all in mitigation and who did not have counsel to

defend him; indeed, the need for a social investigation report to be prepared when a trial Judge contemplates sending to prison a young offender has been pointed out on quite a few occasions by this Court; moreover, in the present instance such need was greater than usually because, as it appears from the record of the Court below, the trial Judge was of the view that the Appellant appeared to require psychological treatment.

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The social investigation report, which has been prepared at our request, shows that the Appellant became a misfit due to a very unfortunate childhood; on the other hand, he has been lucky because he has a good wife who seems prepared to stand by him and help him as much as possible.

Having taken into account all relevant considerations, and in particular the fact that the Appellant is responding this time better than ever before to the institutional treatment in prison, we have decided to reduce the sentence of fifteen months to one of nine months and, thus, this appeal is, therefore, allowed to that extent.

*Appeal allowed.*