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KYRIACOS
SAVVA
HJI KYRIAKOU
v.
THE POLICE

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

KYRIACOS SAVVA HJI KYRIAKOU,

Appellant,

v.

THE POLICE,

Respondents.

(Criminal Appeal No. 3422).

Sentence—Bankruptcy—Concealment of debt and false declaration—Section 116(i) of the Bankruptcy Law, Cap. 5 and section 117 of the Criminal Code Cap. 154—Sentences of fine—Bankrupt failing to disclose debt—Mitigating factors—Appellant's advanced age and his clean criminal record—His explanation regarding non-disclosure—Arrangements for payment of debt by the time of his appearance before the Court—And his resignation from his employment as a result of the receiving Order—Appeal against sentence allowed—Discharged absolutely under section 6 of the Probation of Offenders Law, Cap. 162.

Bankruptcy—Concealment of debt—And making a false declaration—Sentence—Appeal against sentence allowed—See supra.

Appeal against sentence—Bankruptcy—See supra.

The facts sufficiently appear in the judgment of the Court, allowing this appeal against sentence and absolutely discharging the Appellant under section 6 of the Probation of Offenders Law, Cap. 162.

Appeal against sentence.

Appeal against sentence by Kyriacos Savva Hji Kyriakou who was convicted on the 10th January, 1973 at the District Court of Famagusta (Criminal Case No. 3574/72) on one count of the offence of concealment of debt contrary to section 116(i) of the Bankruptcy Law, Cap. 5 and of making a false declaration contrary to sections 117 and 35 of the Criminal Code Cap. 154 and was sentenced by S. Demetriou, D.J. to pay £40.- fine on the first count and £15.- fine on the second count.

Appellant appeared in person.

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

The following judgment was delivered by:—

TRIANTAFYLIDIS, P.: The Appellant has appealed against the sentences—fines of £40 and £15 respectively—imposed on him in respect of the offences of concealment of debt, contrary to section 116(i) of the Bankruptcy Law, Cap. 5, and of making a false declaration, contrary to section 117 of the Criminal Code, Cap. 154; both offences, to which Appellant pleaded guilty, arose out of the same set of facts.

As it appears from the material before us the Appellant is fifty-five years old and has no past criminal record. In 1971, due to his failure to pay off a debt of £70, a receiving order was made against him. The debt, which he did not disclose when making a declaration as to his assets and liabilities, was at the time, a judgment debt, of about £385, due to a bank since 1963; he stated that he had been under the impression that he was expected to disclose his debts only in respect of the period of five years preceding the receiving order; but when he found later out that his said impression was a mistaken one he rang up the Official Receiver and informed him about the debt to the bank.

The trial Court described Appellant's explanation, as regards the non-disclosure of the debt to the bank, as one that "should not be ignored". Moreover, by the time when he appeared before the trial Court there had already been made arrangements for the payment of his debt to the bank by his wife.

In the very exceptional circumstances of this case, and taking also into account that, as disclosed to us today, the Appellant, as a result of the receiving order, had to resign from his post in the service of the Cyprus Tourism Organization, we think that the Appellant should not be punished for the offences concerned and we discharge him absolutely under section 6 of the Probation of Offenders Law, Cap. 162.

Appeal allowed.

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