

1980 January 24

[TRIANTAFYLIDIS, P., L. LOIZOU, DEMETRIADES, JJ.]

PAVLOS CHR. KATSIKIDES,

*Appellant,*

v.

THE POLICE,

*Respondents.*

(*Criminal Appeal No. 4109*).

*Criminal Law — Sentence — Overtaking another vehicle while a third vehicle was coming from the opposite direction—Three weeks' imprisonment and one month's disqualification—Mitigating factors—Appellant's personal circumstances and clean driving record—Sentence of imprisonment excessive—Reduced.*

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The appellant pleaded guilty to the offence of overtaking another vehicle while a third vehicle was coming from the opposite direction and was sentenced to three weeks' imprisonment and was disqualified from holding or obtaining a driving licence for a period of one month. He was thirty-six years old and had a family; he had a clean driving record, after having been a driver for eighteen years and he used his car for the purposes of his work.

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*Upon appeal against sentence:*

*Held*, that though this is a case in which the sentence might quite properly consist of a longer period of disqualification coupled with an appropriate fine, taking into account that the appellant has already spent in prison two weeks, this Court is not prepared, in allowing his appeal and setting aside the sentence of imprisonment passed upon him, to either increase the length of the period of disqualification or to impose on him any other additional sentence by way of a fine.

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*Appeal partly allowed.*

**Appeal against sentence.**

Appeal against sentence by Pavlos Chr. Katsikides who was convicted on the 11th January, 1980 at the District Court of

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Larnaca (Criminal Case No. 9409/79) on one count of the offence of overtaking another vehicle while a third vehicle was coming from the opposite direction, contrary to regulations 57(1) and 71 of the Motor Vehicles and Road Traffic Regulations, 1973 and was sentenced by Michaelides, D.J. to three weeks' imprisonment and was further disqualified from holding or obtaining a driving licence for one month.

A. *Xenophontos*, for the appellant.

S. *Nicolaidis*, Senior Counsel of the Republic, for the respondents.

TRIANTAFYLLIDES P. gave the following judgment of the Court. The appellant was sentenced to three weeks' imprisonment on January 11, 1980, and was disqualified from holding or obtaining a driving licence for a period of one month after he had pleaded guilty before the District Court of Larnaca to the offence of overtaking another vehicle while a third vehicle was coming from the opposite direction.

It is common ground that the appellant is thirty-six years old and has a family; he has a clean driving record after having been a driver for eighteen years and he uses his car for the purposes of his work. When he appeared, without being represented then by counsel, before the trial Court he expressed his regret for committing the offence in question and promised not to repeat it.

We are very much indebted to counsel for the respondents who has very fairly stated before us that, in his view, the sentence of imprisonment was an excessive punishment in the circumstances, even though, as he pointed out, the period of disqualification for one month only would, by itself, be an inadequate sentence; and we do agree with him that this is a case in which the sentence might quite properly consist of a longer period of disqualification coupled with an appropriate fine.

In the present case, however, taking into account that the appellant has already spent in prison two weeks, we are not inclined, in allowing his appeal and setting aside the sentence of imprisonment passed upon him, to either increase the length of the period of disqualification or to impose on him any other additional sentence by way of a fine.

In the result this appeal is allowed in part as stated in this judgment.

*Appeal allowed.*