

1986 October 17

[TRIANTAFYLLIDES, P., DEMETRIADES, PIKIS, JJ.]

GEORGHIOS ANDREA ADAMOU,

Appellant,

v.

THE REPUBLIC.

Respondent.

(Criminal Appeal No. 4760).

Sentence—Possession of explosive substances, that is four sticks of dynamite, contrary to section 4(4)(d) of the Explosive Substances Law, Cap. 54 as amended by section 2 of Law 21/70 and section 3 of Law 27/78—Sentence of two years' imprisonment—In the circumstances of this case manifestly excessive—Reduced to one year's imprisonment. 5

In passing the above sentence the Assize Court of Larnaca took into consideration the fact that the sticks of dynamite were voluntarily delivered by the appellant through a third person to the police, the previous convictions of the appellant, which, however, were not similar to the present offence and the wave of bomb attacks that had in the last few years taken place in Larnaca. 10

Held, allowing the appeal against sentence and reducing the sentence to one year's imprisonment. that, although possession of explosive substances is a very serious offence, in the circumstances of this case the sentence imposed is manifestly excessive. 15

Appeal allowed. Sentence reduced to one year's imprisonment. 20

Appeal against conviction and sentence.

Appeal against conviction and sentence' by Georghios
 Andrei Adamou who was convicted on the 20th June,
 1986 at the Assize Court of Larnaca (Criminal Case No.
 5 5034/86) on one count of the offence of possessing ex-
 plosive substances contrary to section 4(4)(d) of the Ex-
 plosive Substances Law, Cap. 54 (as amended by Law
 No. 21/70) and section 3 of the Explosive Substances Law,
 1978 (Law No. 27/78) and was sentenced by Papadopou-
 10 los, P.D.C., Eliades and Arest's, D.JJ. to two years' im-
 prisonment.

E. Erotocritou, for the appellant.

A. M. Angelides, Senior Counsel of the Republic,
 for the respondents.

15 TRIANTAFYLIDIS P.: The judgment of the Court will be
 delivered by Mr. Justice Demetriades.

DEMETRIADES J.: The appellant was, on the 20th June,
 1986, convicted by the Assize Court of Larnaca for pos-
 sessing explosive substances, that is four sticks of dynamite,
 20 contrary to section 4(4)(d) of the Explosive Substances
 Law, Cap. 54, as amended by section 2 of the Explosive
 Substances (Amendment) Law, 1970 (Law 21/70) and
 section 3 of the Explosive Substances (Amendment) Law,
 1978 (Law 27/78) and was sentenced to two years' im-
 25 prisonment.

He appealed against his conviction and sentence on a
 number of grounds but at the hearing of this appeal his
 counsel abandoned all grounds against conviction, except
 one, namely that the trial Court, in reaching its decision,
 30 did not take into consideration the fact that the four sticks
 of dynamite were blown up by a Police expert after they

were delivered to him and thus the appellant was deprived of his constitutional right to have access to them, so that an expert could give evidence on his behalf as to whether what the Police expert identified as dynamite was in fact correct and that it was not something else. 5

After it was pointed out to counsel by this Court that the appellant himself, in a statement made to the Police after he was cautioned, admitted that he, through a third person, had delivered four sticks of dynamite to the Police, counsel abandoned the appeal against conviction which was, therefore, dismissed. 10

Counsel then proceeded to argue the appeal against the sentence imposed and submitted that in the light of the findings of the trial Court in imposing the sentence of two years' imprisonment, such sentence was manifestly excessive. He further submitted that the Assize Court, in imposing this heavy sentence, was influenced by a wave of bomb attacks that had in the last few years taken place in Larnaca. 15

In passing sentence the Assize Court did take into consideration that the appellant, at his own initiative and without having any obligation to do so, did deliver the four sticks of dynamite to a third person with the request that they were handed over to the Police. As it appears from the record much weight was given to the previous convictions of the appellant, which were not similar to the offence committed by him, to the Probation Officer's report which describes the appellant as a person with an antisocial behaviour, and to the wave of bomb attacks earlier referred to. 20
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Counsel for the respondent had very fairly stated that in the light of the findings of the Assize Court, the sentence imposed on the appellant was manifestly excessive.

Although possession of explosive substances is a very serious offence, the maximum punishment of which is 35

fifteen years' imprisonment, we are in agreement with the submissions of both counsel that, in the circumstances of the case, the sentence imposed on the appellant is manifestly excessive and for this reason we have decided to
5 reduce such sentence to one year's imprisonment.

Order accordingly.

Appeal allowed. Sentence reduced to one year's imprisonment.