

1987 October 23

[A LOIZOU, DEMETRIADES, KOURRIS, JJ]

GABRIEL ABDELAHAD SHARRO,

Appellant,

v.

THE POLICE,

Respondent.

(Criminal Appeal No. 4915).

5 *Sentence — Unlawful possession of controlled drugs (83 grams of cannabis resin) contrary to sections 2, 3, 6(1)(2), 26, 30, 31 38 of para 1 of Part II of the First and Third Schedule of the Narcotic Drugs and Phychotropic Substances Law 29/77 — Four months' imprisonment — Appellant married with six children, a Lebanese apprehended in Cyprus whilst passing on his way to Sweden, the country of his residence — Sentence not manifestly excessive or wrong in principle.*

10 The appellant is a Lebanese mamed with six children. On 11.9 87 he arived at Lamaca Port on his way to Sweden — the place of his residence — through Lamaca Airport

When he was going through the control of the Lamaca Airport, he was searched and, as a result, it was found that he had in his anus 83 grams of resin cannabis, which, as he said, he had it for his own use.

15 The maximum sentence provided by Law for the aforesaid offence is 6 months' imprisonment or a fine of £400.

This appeal is directed against the aforesaid sentence.

20 Held, dismissing the appeal: (1) Though a substantial differentiation has to be made between possession of narcotics for purposes of trafficking and trade and possession of narcotics for one's own use, possession of narcotics for one's own use is still a senous offence and should, by all means, be discouraged.

(2) In the circumstances the sentence is neither manifestly excessive nor wrong in principle.

Appeal dismissed.

Appeal against sentence.

Appeal against sentence by Gabriel Abdelahad Sharro who was convicted on the 18th September, 1987 at the District Court of Lamaca (Criminal Case No. 9090/87) on one count of the offence of unlawfully possessing controlled drugs contrary to sections 2, 3, 6(1)(2), 26, 30, 31, 38 and para. 1 of part II of the First and Third Schedule to the Narcotic Drugs and Psychotropic Substances Law, 1977 (Law No. 29 of 1977) and was sentenced by Arestis, D.J. to four months' imprisonment. 5

Appellant appeared in person. 10

Cl. Antoniades, Senior Counsel of the Republic, for the respondents.

A. LOIZOU, J. gave the following judgment of the Court. The appellant was convicted on his own plea, of the offence of unlawful possession of controlled drugs, to wit, eighty-three grams of cannabis resin, without permit from the Minister of Health, contrary to sections 2, 3, 6(1)(2), 26, 30, 31, 38, of paragraph 1 of Part II of the First Schedule and the Third Schedule of the Narcotic Drugs and Psychotropic Substances Law, 1977 (Law No. 29 of 1977) as put into force by Administrative Order No. 139 of 1979. He was sentenced to four months imprisonment and he has appealed against the sentence on the ground that it is manifestly excessive. 15 20

The facts of the case, which appear in the judgment of the learned trial Judge, are briefly these. 25

The appellant is a Lebanese, now resident of Sweden, married with six children, their ages ranging between seven months to sixteen years old.

On the 11th September 1987, in the morning, the appellant arrived at Lamaca Port on board the ship «SUNNY BOAT» on his way to Sweden by air through Lamaca Airport. 30

When in the afternoon of that day the appellant was going through the control of Lamaca Airport in order to depart, he was bodily searched and from this search it was discovered that he had packed and placed in his anus eighty-three grams of resin cannabis. Asked about it, he said that he had it for his own use and that he had bought it from Lebanon as he is addicted to this narcotic. 35

5 The maximum sentence provided by Law for offences of this nature, tried summarily by a District Court, is six months imprisonment or a fine of £400.-. The learned trial Judge - and rightly so - stressed the importance of the strict enforcement of this Law so that the use, possession and generally the transportation of narcotics through Cyprus, should be stopped as far as possible.

10 It is true that in punishing offences of this nature a substantial differentiation has to be made between possession of narcotics for purposes of trafficking and trade and possession of narcotics for one's own use. However, possession of narcotics for one's use is still a serious offence and should, by all means, be discouraged.

15 We heard the appellant who has invited us to reduce the sentence imposed upon him or substitute same with one of fine in view, in particular, of his family circumstances.

20 This Court on appeal exercises its powers on well defined principles, the paramount one being that it will not merely interfere with a sentence imposed by a trial Court, which has the primary function of doing so, and reduce or substitute same by another sentence simply on the ground that had this Court been taking the case in the first instance it might have imposed a different one. Moreover the appellant has to establish that, in the circumstances, the sentence appealed against, is manifestly excessive or wrong in principle.

25 On the totality of the facts of the case including the family circumstances of the appellant, we have come to the conclusion that the sentence imposed on him is neither manifestly excessive nor wrong in principle and, therefore, the appeal must be and is hereby dismissed.

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Appeal dismissed.