

1987 December 4

[A LOIZOU LORIS STYLIANIDES JJ]

ELIA NAIM CHABIB-AWAD,

Appellant,

v

THE REPUBLIC,

Respondent

(Criminal Appeal No 4921)

Sentence — Conspiracy to commit a felony, to wit armed robbery, contrary to sections 37 and 20 of the Criminal Code, Cap 154 — Appellant, a young Lebanese 22 years of age readily confessed upon his arrest the commission of the offence and assisted in the arrest of his collaborators — Two years imprisonment — Upheld

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Hisham Itani arrived by boat at Lamaca on the 27th August 1987 carrying with him four cases containing currencies of various Arab countries, equal in value to seven-hundred thousand U S dollars. He was met at the airport by El Khoun and they both left by car for their hotel, having locked the cases with the money in the boot of the car. As soon as they alighted from it at the entrance of the Hotel, there appeared three armed persons wearing track-suits and caps and their faces covered with masks made of ladies stockings, who attempted to rob the said Itani and Khoun.

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Among those arrested by the police was the appellant, a young Lebanese 22 years of age, who, after his arrest, confessed to the commission of the offence of conspiracy to commit armed robbery and assisted in the arrest of his collaborators and generally in the detection of the case.

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This appeal is directed against the sentence of two years' imprisonment for the offence of conspiracy to commit armed robbery.

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Held, dismissing the appeal, that there is no reason to interfere with the sentence.

Appeal dismissed

Appeal against sentence.

Appeal against sentence by Elia Naim Chebib-Awad who was convicted on the 9th October, 1987 at the Assize Court of Lamaca

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(Criminal Case No 8990/87) on one count of the offence of conspiring with others to commit a felony contrary to sections 371 and 20 of the Criminal Code, Cap 154 (as amended by Laws 4/74 and 43/74) and was sentenced by Nikitas, P D C , Laoutas, S D J and G Nicolaou, D J to two years' imprisonment

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Appellant appeared in person

A M Angelides, Senior Counsel of the Republic, for the respondent

A LOIZOU J gave the following judgment of the Court The appellant was found, by the Lamaca Assize Court, guilty on his own plea of a charge of conspiring with others to commit a felony contrary to Sections 371 and 20 of the Criminal Code, Cap 154 as amended by Laws No 4 of 1974 and 43 of 1974

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The particulars of the offences were that the appellant and his ex co-accused on the information between the 1st August 1987 and the 23rd August 1987, both days inclusive on a date unknown to the prosecution in Limassol and Lamaca within the territory of the Republic of Cyprus conspired between them and a certain Said Joseph Dain of unknown abode to commit a felony to wit armed robbery

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The maximum sentence provided by the Code for the offence in question is seven years' imprisonment and the sentence imposed on him was one of two years' imprisonment

On Sunday the 23rd August 1987, around 7 00 a m there was committed in front of the entrance of the Hotel «Evianthi» in Georghios Georghiades Street Lamaca the offence of attempted robbery Ex-accused 2, 4 and 5 pleaded guilty to the charge of attempted robbery contrary to section 284 of the Code and to other counts relating to the possession of pistols rounds of ammunition and a silencer of pistols The victims of this attempt were Toni El Khoun and Hisham Ittani The latter arrived by boat at Lamaca on the 27th August carrying with him four cases containing currencies of various Arab countries, equal in value to seven-hundred thousand U S dollars He was met at the airport by El Khoun and they both left by car for the hotel having locked the cases with the money in the boot of the car As soon as they alighted from it at the entrance of the Hotel there appeared the three armed persons wearing track-suits and caps and their faces covered with masks made of ladies stockings Ex-accused 4 and 5

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asked the victim to raise his hands but instead he reacted quickly and run away whilst one of the armed men aimed at him with a pistol shouting at him to stop. In the meantime the other person managed to get into the hotel whilst the culprits after their
5 unsuccessful attempts to open the boot of the car left running away.

With the assistance of eye-witnesses and as a result of speedy Police action most of the persons involved in the planning, preparation and commission of these offences were arrested and
10 prosecuted. Among them was the present appellant, who after his arrest confessed to the commission of the offence of conspiracy, and who in fact cooperated with the Police and assisted in the arrest of his collaborators and generally in the detection of the case. The appellant claimed, however, to have been forced into
15 this situation by the master mind of the offence, who was ex accused 1.

The culprits, who like the victims come from Lebanon, knew of the activities of the complainants and the money in foreign currencies he was bringing regularly from Lebanon to Cyprus for
20 the purpose of forwarding such money through Lamaca Port to their countries of origin and they placed the Port under surveillance waiting for his arrival for the execution of this well planned and in a way unknown in nature in Cyprus offence.

The Assize Court in passing sentence took into consideration the conduct of the appellant after his arrest as a mitigating factor and in particular his cooperation with the Police. And also the fact, that he was unlike the other co-assused facing only a charge of
25 conspiracy.

The appellant is twenty-two years of age, a labourer employed in a dress-making factory in Lebanon and engaged to be married.
30 His fiance lives with his parents there. It is unfortunate that a young man as the appellant has come to a foreign country which has extended to him hospitality and he did not respect the laws of the host country. This abuse by the appellant of the hospitality
35 given to him here was the subject of comment by the Assize Court which observed that though that could not be considered as an aggravating factor, yet, it had to note that there was «increased criminality among our guests,» as it put it.

The appellant has complained by the present appeal that the
40 sentence imposed on him was manifestly excessive or that there

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was room for leniency so that he would go back to his country and return to his normal occupation.

We are afraid we cannot subscribe to this. Having considered what he has said himself in this case we find no reason to interfere with the sentence imposed by the Assize Court in his case. Consequently this appeal is dismissed.

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Appeal dismissed.