

1985 June 13

(TRIANAFYLIDIS, P, PIKIS, KOURRIS, JJ)

1 ARISTOTELIS LAZAROU CHARALAMBOUS,
2 GREGORIS COSTA PERICLEOUS,

Appellants,

v

THE REPUBLIC,

Respondent.

(Criminal Appeal Nos 4603, 4604)

*Sentence — Attempt to kill — Five years' imprisonment for appellant 1, who
masterminded the offence and three years for appellant 2 — The act was
done for revenge for the act of complainant 1 (husband of complainant 2),
who some years earlier stabbed and killed the brother of appellant 1 —*
5 *Appellants are young persons, aged 22 and 24 respectively — A very
favourable social investigation report was not placed by mistake before the
trial Court — Had it been so placed, the trial Court would have imposed more
lenient sentences — For this reason and notwithstanding that the aforesaid
sentences are rather lenient, the sentence on appellant 1 will be reduced to*
10 *3 1/2 years' imprisonment and that on appellant 2 to 18 months*

The facts sufficiently appear in the judgment of the Court

*Appeal allowed Sentences
reduced as aforesaid*

15 Appeals against sentence.

Appeals against sentence by Aristotelis Lazarou Charalambous
and Another who were convicted on the 10th December, 1984 at
the Assize Court of Limassol (Criminal Case No. 22020/84) on
one count of the offence of attempted murder contrary to sections
20 214(a) and 20 of the Criminal Code, Cap. 154 and were sentenced
by Hadjitsangaris, P.D.C., Artemis, S.D.J. and Stavrinides, D.J. to
five years' and three years' imprisonment respectively.

A. Neocleous with S. Karatsis, for the appellant.

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

Cur. adv. vult.

TRANTAFYLLIDES P. read the following judgment of the Court. The two appellants, who were the co-accused in criminal case No. 22020/84, were convicted, on 10 December 1984, by an Assize Court in Limassol of the attempted murder of Pavlos Stylianou Mitas and his wife, Anastassia Pavlou. 5

The appellants were sentenced to five years' and three years' imprisonment, respectively, the trial Court having found that appellant 1 had masterminded the attempt to kill the complainants and the appellant 2 was his accomplice. 10

The complainants, like the appellants, come from Nata village, in the Paphos District, but on the material date, that is on 26 August 1984, they were residing at Episkopi village, in the Limassol District. 15

On that date, in the evening, the complainants were walking along a street in Episkopi village when the car of appellant 1, driven by him, in which appellant 2 was a passenger, knocked them down and injured both of them, more seriously the complainant Mitas and less seriously his wife. 20

At their trial both appellants pleaded not guilty but, eventually, they have pursued these appeals only against the sentence imposed on them and, thus, they no longer disclaim their guilt.

Unfortunately, some years earlier, complainant Mitas had stabbed and killed during a quarrel the brother of appellant 1 and had been sentenced to five years' imprisonment, and it seems that the appellants, who are relatives, attempted to kill the complainants by way of revenge. 25

We cannot accept in the least that the appellants were in any way justified in trying to punish on their own complainant Mitas for the killing of the brother of appellant 1 in respect of which he had already been punished by the State. 30

It is true that the appellants are young persons, aged twenty-two and twenty-four years respectively, and both of them are first offenders, but those mitigating factors were duly weighed by the trial Court in assessing the sentences that were passed upon the appellants. 35

There were not, however, taken into account by the trial Court, because by mistake they were not placed before it, two very favourable for the appellants social investigation reports which were prepared about them by the Department of Social Welfare
5 Services.

The contents of these reports, to which we need not refer in detail, are such that, in our opinion, the trial Court would have imposed more lenient sentences on the appellants had such reports been placed before it at the time.

10 Consequently, notwithstanding the fact that the sentences which were passed on the appellants are rather lenient, we have decided to intervene in favour of the appellants and to reduce the sentence passed upon appellant 1 from five years to three and a half years and the sentence passed upon appellant 2 from three
15 years to eighteen months.

In the result these appeals are allowed accordingly.

*Appeals allowed.
Sentences reduced.*