

1988 January 14

(A. LOIZOU, MALACHTOS, SAVVIDES, JJ.)

MUEEN TARRAD RABAH HUSSEIN,

Appellant,

v.

THE REPUBLIC,

Respondent.

(Criminal Appeal No. 4929).

Sentence — Housebreaking and stealing therefrom (U.S. Dollars 2,000 and £415.-) contrary to sections 291, 292 (a) and 255 of the Criminal Code — Another offence of similar nature taken into consideration — Appellant, who supported his widow mother and two sisters out of his monthly salary, found himself in a difficult financial position by reason of his betting at the racecourse and unable to continue such support — Eighteen months' imprisonment — Rather on the lenient side.

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The facts of this case sufficiently appear in the hereinabove headnote.

Appeal dismissed.

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Appeal against sentence.

Appeal against sentence by Mueen Tarrad Rabah Hussein who was convicted on the 26th October, 1988 at the Assize Court of Nicosia (Criminal Case No. 35039/87) on one count of the offence of house-breaking and stealing contrary to sections 291, 292 (a) and 255 of the Criminal Code, Cap. 154 and was sentenced by Artemides, P.D.C., Kronides, S.D.J. and Eleftheriou, D.J. to eighteen months' imprisonment.

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Appellant appeared in person.

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S. Matsas, for the respondent.

A. LOIZOU, J. gave the following judgment of the Court. The appellant was found guilty on his own plea of guilty on a charge of house-breaking and stealing therefrom contrary to sections 291, 292(a) and 255 of the Criminal Code, Cap. 154.

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The particulars of the offence were that the appellant on the 28th October, 1987 at Ayios Dhometios in the District of Nicosia broke and entered into the house of one Ahmet Abdullah Hussein of Ayios Dhometios with intent to commit a felony therein, that is stealing and did steal U.S. dollars 2,000.- and £415, property of the said Hussein.

The facts of the case as set out in the judgment of the Assize Court are briefly these. The appellant, who comes from Jordan, has been living in Cyprus for the last two years and is employed at the Nicosia Race-Course. He is twenty-five years of age. His widowed mother with his two younger sisters live in Kuwait and he supports them out of his monthly earnings which amount to £300.- per month. Unfortunately on account of his professional connections with racing he started betting and as a result he found himself in a difficult financial position unable to continue to support his family.

The complainant who comes from Egypt works as a farrier at the race-course. He resides alone in a house nearby. On the 28th September 1987, at about 6:30 a.m. he left for his work and closed the only door of his house which could not open without the use of a key. When he returned at about 9:00 a.m. of the same day he noticed that his bed had been disturbed and thereupon he checked the cupboard in which he had his savings. On noticing that there were missing the amounts referred to in the particulars of the offence he reported the matter to the Police. The appellant was identified by a neighbour from a photograph and he was arrested by the Police who found in his possession a hundred U.S. dollar note but he denied any knowledge of the offence. On the following day the same witness Galatia Nicou identified the appellant in an identification parade. His flat was searched and they found therein eighteen notes of a hundred U.S. dollars each and the rest of the money he said he spent it at the cabaret and bought shoes and clothing.

The appellant admitted to have committed the offence and also admitted another offence that of breaking and entering into the flat of two cabaret artists, and stealing therefrom one recorder, a camera, a bag, a watch and cash. In that case he left behind fingerprints which were identified as belonging to him.

The Assize Court, on the facts of the case and duly assessing the circumstances of the offence as well as the personal circumstances of the offender and after taking also into consideration the case

pending against the appellant, imposed on him eighteen months' imprisonment, and ordered that the exhibits which were in the possession of the Police be returned to their original owners.

The appellant today before us in support of his appeal against sentence on the ground of same being excessive, repeated and stressed his family circumstances and his previous good character evidenced by his two years stay in Cyprus. 5

The maximum sentence provided by law is seven years' imprisonment. On the totality of the circumstances of the case and bearing in mind the principles governing the interference of this Court with a sentence imposed by a trial court, which is in the first place the proper court to decide on such matters, we have not been persuaded that the sentence imposed on the appellant is in any way manifestly excessive. On the contrary, it was on the lenient side and, obviously arrived at after paying due regard to the personal circumstances of the appellant. 10 15

For all the above reasons, the appeal is dismissed.

Appeal dismissed.