

1963
June 3

[WILSON, P., ZEKIA, VASSILIADES AND JOSEPHIDES, JJ.]

THE ATTORNEY
GENERAL
OF THE
REPUBLIC
v.
HUSSEIN
SABRI

THE ATTORNEY-GENERAL OF THE REPUBLIC,

Appellant,

v.

HOUSSEIN SABRI

Respondent.

(Criminal Appeal No. 2638)

The Shop Assistants Law, Cap. 185, sections 5 and 12—The Shop Assistants (Afternoon Week-Day) Closing Order, 1952—Keeping shop open after closing hours—Sentence—The shop closing hours should be observed not only for the protection of the employees but also to prevent unfair competition by a shop-keeper keeping his shop open longer hours than the law allows.

Sentence—Appeal by the Attorney-General against inadequacy of the sentence—Sentence increased.

The respondent was charged with keeping his grocery shop open on a Saturday afternoon contrary to sections 5 and 12 of the Shop Assistants Law, Cap. 185 and to the Shop Assistants (Afternoon Week-Day) Order, 1952. On his own plea he was convicted and sentenced to 500 mils. The accused (respondent) kept his shop open from 14.00 hours to 16.00 hours, on Saturday, March 6, 1963. On appeal by the Attorney-General against the inadequacy of sentence, the High Court —

Held : (1) We stress that the shop closing hours must be observed not only for the protection of the employees but also to prevent unfair competition by a shop-keeper keeping open longer hours than the law allows.

(2) The fine imposed is inadequate and it must be increased to the sum of £2.

Appeal allowed. Sentence increased as above.

Appeal against sentence by the Attorney-General of the Republic.

The respondent was convicted on the 16th April, 1963, at the District Court of Larnaca (Criminal Case No. 830/63) on one count of the offence of keeping his grocery shop open on Saturday afternoon contrary to sections 5 and 12 of the Shop Assistants Law Cap. 185 and the Shop Assistants

(Afternoon Week-day) Closing Order 1952, Not. No. 282/52 and 283/52 and was sentenced by Ekrem D.J., to pay a fine of £0.500 mils.

K. C. Talarides for the appellant.

Respondent in person.

The facts sufficiently appear in the judgment of the Court delivered by :

WILSON, P. : This is an appeal by the Attorney-General from the sentence imposed by the District Court of Larnaca upon the accused on April, 16, 1963. The respondent was charged with keeping his grocery shop open on a Saturday afternoon contrary to sections 5 and 12 of the Shop Assistants Law, Cap. 183 and the Shop Assistants (Afternoon Week-day) Closing Order 1952—Notification Nos. 282/52 and 283/52. When he was arraigned he pleaded guilty and he was fined £0.500 mils.

The ground of appeal was that the sentence of the trial Court was manifestly insufficient due to the seriousness and prevalence of the offence. It is common knowledge that there were a number of prosecutions for this offence. With respect to the particular case before us we have heard only the arguments of counsel for the Attorney-General concerning it. We have not heard any submissions with respect to other penalties imposed in other cases. Their facts may have been different from the present one.

It is clear from the record that the accused kept his grocery shop open after 14.00 hours on Saturday, March 16, 1963, and that it was open at 16.00 hours. We must take this occasion to stress that the shop closing hours must be observed not only for the protection of the employees but also to prevent unfair competition by a shop-keeper keeping open longer hours than the law allows.

The allegation of the respondent that he was merely entertaining a guest, in our opinion, is untenable.

It is our view that the penalty which was imposed in this case is not adequate and that it should be set aside. On the other hand we do not feel that this is a case for a severe penalty and we propose to impose one which would ensure that the law must be observed. Subsequent offenders, however, who commit similar offences may receive much heavier penalties.

In our view the proper penalty to be imposed in this case is a fine of £2 and we so order.

Appeal allowed.

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