

PANAYIOTIS AGATHOCLEOUS,

Appellant,

v.

THE POLICE,

Respondents.

PANAYIOTIS
AGATHOCLEOUS
v.
THE POLICE

(Criminal Appeal No. 2803)

Criminal Law—Assault causing actual bodily harm, contrary to section 243 of the Criminal Code, Cap. 154—Sentence—Appeal against excessive sentence—A case where sentence must be aimed not only at the punishment and reform of the offender, but also at the protection of the public—Sentence increased as being manifestly inadequate.

The appellant a labourer, 33 years of age was convicted on his own plea on one count of the offence of assaulting his wife thereby occasioning actual bodily harm to her, contrary to section 243 of the Criminal Code, Cap. 154 and he was sentenced to one year's imprisonment. He appealed against sentence on the ground that it was excessive. The appellant's plea in mitigation at the trial and on appeal was that he only gave his wife two slaps. The medical officer who examined the complainant some two weeks after the assault, found that she was suffering of "severe P.V. bleeding, bruises on her legs and back, scratches and bruises on the scalp". Moreover at the time of the assault the complainant was in her second month of pregnancy and that, apparently as a result of the assault, she had an abortion, and had to be admitted in hospital for curettage.

Held, it seems to us that this is a case where the sentence must be aimed not only at the punishment and reform of the offender, but also at the protection of the public and particularly of his wife. We are unanimously of opinion that the sentence imposed is, in the circumstances manifestly inadequate; and that the appropriate sentence for this case is one of two years' imprisonment from today. There will be judgment and order accordingly.

Appeal dismissed. Sentence increased to one of two years' imprisonment from today.

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Appeal against sentence.

Appeal against the sentence imposed on the appellant who was convicted on the 30.10.65 at the District Court of Nicosia, sitting at Morphou, on one count of the offence of assault causing actual bodily harm, contrary to section 243 of the Criminal Code, Cap. 154, and was sentenced by Pitsillides, D.J. to one year's imprisonment.

Appellant in person.

M. Spanos, counsel of the Republic, for the respondents.

The judgment of the Court was delivered by :

VASSILIADES, J. : This is an appeal against a sentence of one year imprisonment, for assault occasioning actual bodily harm, imposed on the appellant by the District Court of Nicosia, sitting at Morphou. The ground on which the appeal is taken, as set out in the notice filed, is that the sentence is excessive.

The appellant is a labourer, 33 years of age, of the village of Vouni. He was convicted on his own plea for assaulting his wife on the 16th May, last, at their village.

In opening the facts of the case before the trial Judge, after appellant's plea of guilty to the charge, the prosecuting Police Officer described the assault as use of violence " with his hands, with a chair, and by kicking his wife ". Appellant's reply in mitigation was that he only gave his wife two slaps. This was his plea also before us today, where he gave us the impression that he still believed that assaulting his wife and giving her two or three slaps is but a trifling matter. The medical report, however, which was put before the trial Judge and is found on the record, as exhibit 1, leaves no doubt that the violence used by the appellant against his wife, was much more than he described. The Medical Officer who examined appellant's wife some two weeks after the assault, when she was taken to him by the Police, found that she was then suffering of " severe P.V. bleeding, bruises on her legs and back, scratches and bruises on the scalp ". Moreover, the report states that at the time of the assault the wife was in her second month of pregnancy and that, apparently as a result of the assault, she had an abortion, and had to be admitted in hospital for curettage.

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Appellant's character, as reflected from the list of previous convictions, which were stated to the trial Judge in connection with sentence, appears to be quite consistent with the violent manner in which he treated his wife on this occasion. We find it unnecessary to refer specifically to appellant's previous convictions starting from 1949 ; he has two of aggravated assault, one for threatening violence and carrying a knife, one for manslaughter in 1959 ; one for attempting to wound a Peace Officer in the execution of his duty and the last one in May, 1965, for carrying a knife. With this material before him the trial Judge sentenced the appellant to one year's imprisonment. This is the sentence which the appellant re-opens with his appeal, complaining that it is manifestly excessive.

The charge against the appellant is made on section 243 of the Criminal Code, where the punishment provided by law is three years imprisonment. We have before us a man of violent character, who has had several opportunities of revising and reforming his ways, but he seems to have no inclination to do so. As we have already said, after serving several terms of imprisonment for the use of violence against others, he still pleads for leniency on the ground that his conduct against his wife is a trifling matter.

It seems to us that this is a case where the sentence must be aimed not only at the punishment and reform of the offender, but also at the protection of the public and particularly of his wife. We are unanimously of opinion that the sentence imposed is, in the circumstances manifestly inadequate ; and that the appropriate sentence for this case is one of two years imprisonment from today. There will be judgment and order accordingly.

Appeal dismissed. Sentence increased to one of two years imprisonment from today.