

1966
Oct. 27

[VASSILIADES, AG. P., JOSEPHIDES J. AND HADJIANASTASSIOU, AG. J.]

LAMBROS
COSTA
NICOLAOU
v.
THE REPUBLIC

LAMBROS COSTA NICOLAOU,

Appellant,

v.

THE REPUBLIC,

Respondent.

(*Criminal Appeal No. 2843*)

Criminal Law—Sentence --Costs—Sentence of imprisonment including order for payment of costs—Appeal against sentence—Imprisonment affirmed but order for payment of costs set aside as being unusual in the circumstances.

Firearms—Carrying a pistol contrary to section 1 (2) (a) of the Firearms Law, Cap. 57 (as amended) and section 5 of the Military Criminal Code and Procedure Law, 1964 (Law No. 40 of 1964)—And possessing explosive substances contrary to section 4 (4) (d) of the Explosive Substances Law, Cap. 54 and section 5 of Law No. 40 of 1964 (supra)—Appeal against sentence --See above under Criminal Law.

Appeal against sentence.

Appeal against the sentence imposed on the appellant who was convicted on the 20th September, 1966, at the Military Court, sitting at Nicosia, (Case No. 296/66) on two counts of the offences of (1) carrying a revolver contrary to section 1 (2) (a) of the Firearms Law, Cap. 57 (as amended by Law 11 of 1959) and section 5 of the Military Criminal Code and Procedure Law, 1964 (Law 40/64) and (2) possessing explosive substances, contrary to section 4 (4) (d) of the Explosive Substances Law, Cap. 54 and section 5 of Law 40/64 (*supra*) and was sentenced to eighteen months' imprisonment on count 1 and one year's imprisonment on count 2, the sentences to run concurrently.

Appellant, in person.

M. Spanos, Counsel of the Republic, for the respondent.

VASSILIADES, AG. P.: Mr. Spanos, we find it unnecessary to call upon you regarding the term of imprisonment in the sentence ; but we would like to hear you on the order for the payment of costs. A sentence may include an order for the payment of costs ; but this is rather unusual where the sentence is one of imprisonment for a term such as the one in this Case.

Mr. Spanos : The record does not show any particular reason justifying the order made in this Case. I would

leave this matter entirely with the Court. I admit that such an order is rather unusual, especially in the case of a poor person. I would not press this point.

The following judgment of the Court was delivered by :

VASSILIADES, AG. P.: This is an appeal against a sentence of 18 months' imprisonment for carrying a pistol and six rounds of ammunition. The ground on which the appeal is taken, is that the sentence is excessive. The facts of the case constitute, more or less, common ground ; and the trial Court gave in their judgment, the reasons for which they thought fit to impose the sentence in question, which, as they say in the last part of their judgment, they consider rather lenient.

The responsibility for imposing sentence after conviction, rests primarily with the trial Court. As stated in a number of similar appeals, this Court will not interfere with the sentence imposed by the trial Court, unless it is shown on appeal, that there are sufficient legal reasons for doing so. One of such reasons may be that the sentence is manifestly excessive in the circumstances in which the offence was committed ; and this is the ground upon which the present appeal is taken. But considering the material on record, we see nothing whatever, in support of the appeal. As far as this goes against the sentences of imprisonment imposed by the trial Court for the offences on which the appellant stands convicted on his own plea the appeal must fail.

The sentence, however, includes also an order for the payment of £2.250 mils costs of prosecution. Rightly, we think, learned counsel for the Republic did not feel inclined to support the order for costs ; and left this matter entirely to the Court. He agreed that such an order is rather unusual in such circumstances ; and we are unanimously of the opinion that to this extent, the appeal should be allowed, and the order for costs be set aside. There will, moreover, be directions for the sentence to run from the date of conviction.

In the result, the sentence of imprisonment is affirmed ; and is to run concurrently from the date of conviction. The order for the payment of costs to be discharged.

*Appeal allowed in part.
Order for costs set aside.
Sentence to run from date
of conviction.*

1966
Oct. 27
—
LAMBROS
COSTA
NICOLAOU
v.
THE REPUBLIC