

1966
Oct. 19, 26,
Nov. 9
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NICOS
DEMETRIOU
MEYTANIS
v.
THE POLICE

[JOSEPHIDES, STAVRINIDIS, JJ., HADJIANASTASSIOU, AG. J.]

NICOS DEMETRIOU MEYTANIS,

Appellant,

v.

THE POLICE,

Respondents.

(Criminal Appeal No. 2836)

Criminal Law—Sentence—Appeal against sentence—Indecent assault on female—Accused a young man—Young offenders—Sentence of one year's imprisonment imposed by the trial Court—Lack of custodial treatment and training (borstal type institution) for young offenders in Cyprus—In view of the lack of such institutions and regard being had to all the circumstances of the case, sentence of imprisonment set aside by the Court of Appeal—And appellant (accused) discharged on probation on certain terms and conditions.

Borstal Institutions in Cyprus—Necessity for the establishment in Cyprus of borstal institutions for custodial treatment and training of young offenders.

Probation—Probation order—Terms etc.—See above.

Young offenders—Duty of the Courts to see whether it would not be possible for young men to be given a chance to reform and become useful citizens—See, also, above under Criminal Law.

Cases referred to :

Tryfona v. The Republic 1961 C.L.R. 246, observations at p. 252, approved ; and reiterated.

Appeal against sentence.

Appeal against the sentence imposed on the appellant who was convicted on the 18th August, 1966 at the District Court of Kyrenia (Criminal Case No. 1046/66) on one count of the offence of indecent assault on a female contrary to sections 151 and 35 of the Criminal Code, Cap. 154, and was sentenced by Savvides, D.J., to one year's imprisonment.

G. Kaizer, for the appellant.

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

The facts of the case sufficiently appear in the judgment of the Court :

JOSEPHIDES, J.: Undoubtedly the offence for which the appellant was sentenced to one year's imprisonment is an odious one. He indecently assaulted his sister, aged 14, with his hand on several occasions, and he pleaded guilty before the trial Court.

The appellant is a young man of 18 years and 8 months of age, and he has completed the fifth form of the Kyrenia Gymnasium. He has been of excellent character and eager to complete his studies, but he has fallen into temptation. To our minds this is due to a considerable extent to the very bad influence of the father who has, in the meantime, been convicted by the Assize Court of Kyrenia to nine years' imprisonment for having immoral relations with his own daughter, the very same girl whom the appellant indecently assaulted. This may partly explain the conduct of the appellant but it in no way excuses his detestable act which we strongly condemn.

Although it is the duty of the Court to punish severely offences of this nature, nevertheless we are of the view that it is also the duty of the Court to see whether it would not be possible for young men to be given a chance to reform and become useful citizens. With these principles in mind and considering all the circumstances of this case, including the young age, excellent character and ardent desire of the appellant to complete his studies (he worked for a year in order to earn the money to enrol as a student of the Kyrenia Gymnasium in 1961, and he worked during the summer vacation every year), we have decided to give the appellant a chance to reform.

If we had in Cyprus a borstal type of institution we would have no difficulty in dealing with the case of this young man. We would have imposed a sentence of custodial treatment and training in such an institution. As we had occasion to observe in the past (see *Tryfona* alias *Aloupos* v. *The Republic* 1961 C.L.R. 246, at page 252), it is unfortunate that we have not yet established in this country borstal institutions for custodial treatment of young offenders between the ages of 16 and 21. We would reiterate once more the necessity for the establishment of such institutions.

In view of the lack of such institutions for young offenders and having regard to the circumstances of this case, we are of the opinion that it is expedient to discharge the appellant on probation, and we accordingly allow the appeal, set

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aside the sentence of one year imprisonment and order as follows :—

The appellant shall be discharged but shall remain under the supervision of the District Probation Officer of Nicosia for a period of two years and shall comply with the following requirements :—

1. He shall carry out the directions of the Probation Officer as to his conduct and mode of living and visit or receive visits from him as he shall direct and report to him forthwith any change of residence or place of employment.
2. He shall reside at 23, Pericleous Street, Ayios Ioannis Quarter, Nicosia, with Eleni Constantinou and her two sisters.
3. From today until the 30th June, 1967, he shall daily, except Sundays and school holidays, remain in his residence and study between 8 a.m. and 12.30 p.m.; and in the afternoons between 3 and 5 p.m., when he shall receive instruction from teachers of the Kykko Gymnasium, Nicosia. Those teachers, for the time being, are Mr. Stelios Stylianakis, Mr. Thassos Sofocleous and Mr. Andreas Demetriades.
4. From 1 to 3 p.m. and from 8 to 10 p.m. daily he shall work as a waiter in the restaurant of Mr. Georghios Souglides in Nicosia. He shall return home soon after 10 p.m. daily and remain indoors the whole night.
5. In the month of June he shall take the final examinations of a recognized Gymnasium for the leaving certificate of the sixth form. The letter of the Director of Education, dated 8th November, 1966 (marked " B2 "), states that he will be allowed to take these examinations.

We direct that the District Court of Nicosia shall be the supervising Court in relation to this probation order.

In the result the appeal is allowed, the sentence of one year's imprisonment set aside and a probation order in the above terms substituted.

Appeal allowed. Sentence of one year's imprisonment set aside. Probation order in above terms substituted.