

GEORGHIOS AVRAAM MOUZOURIS,

GEORGHIOS  
AVRAAM  
MOUZOURIS.

*Appellant,*

v.

THE REPUBLIC,

v.  
THE REPUBLIC

*Respondent.*

(Criminal Appeal No. 2809)

*Criminal Law—Homicide—Causing death by an unlawful act, contrary to section 205 of the Criminal Code, Cap. 154, as amended by section 5 of the Criminal Code (Amendment) Law 1962 (Law 3 of 1962)—Sentence—Appeal against sentence of life imprisonment as being excessive—A borderline case between a premeditated and an unpremeditated murder—Sentence appealed against not considered excessive.*

*Criminal Law—Sentence—Principles upon which sentences should be assessed—Interest of the public, the deterrent effect of sentence, the individual involved and the circumstances leading him to the commission of the offence.*

*Criminal Procedure—Appeal—Sentence—Court of Appeal will interfere with sentences when found to be manifestly excessive.*

The appellant was convicted on his own plea of guilty on a charge of homicide, contrary to section 205 of the Criminal Code, Cap. 154, as amended by law 3 of 1962 and was sentenced to imprisonment for life. He appealed against sentence on the ground that it was excessive. The Supreme Court in dismissing the appeal :

*Held, (1) in passing sentence the Court has on the one hand to bear in mind the interest of the public, the deterrent effect of such sentence, and, on the other hand, the individual involved and the circumstances leading him to the commission of such offence.*

(2) We here, as a Court of Appeal can only interfere with the sentence imposed by the lower Courts when we find such sentences to be manifestly excessive. It is true that life imprisonment sounds cruel but taking the life of somebody else cannot be less cruel. On the facts of the case, therefore, we are of opinion that the sentence imposed was not an excessive one and the appeal is therefore dismissed.

*Appeal dismissed.*

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### Appeal against sentence.

Appeal against the sentence imposed on the appellant who was convicted on the 24th January, 1966, at the Assize Court of Larnaca (Criminal Case No. 2722/65) on one count of the offence of homicide contrary to section 205 of the Criminal Code, Cap. 154 (as amended by Law No. 3 of 1962) and was sentenced by HadjiAnastassiou, P.D.C., Loizou & Vassiliades, D.JJ. to imprisonment for life.

*St. Pavlides*, for the appellant.

*A. Frangos*, Counsel of the Republic, for the respondent.

The judgment of the Court was delivered by :

ZEKIA, P.: The appellant in this case pleaded guilty to a charge of homicide, namely, that on the 10th November, 1965, he killed a certain Antonis Makris, by an unlawful act. The charge was brought under section 205 of the Criminal Code, as amended by Law 3 of 1962. The Assize Court of Larnaca sentenced the appellant to life imprisonment. Appeal is made to this Court on the ground of excessiveness of sentence.

The facts of the case were stated at length before the trial Court and also to us by the learned counsel of the Republic. Likewise, the learned counsel for the appellant referred fully to the mitigating circumstances touching the sentence, here and to the Court below.

On the facts of this case, to say the least, one could fairly describe it as a borderline case falling between a premeditated murder and an unpremeditated murder. Learned counsel for appellant with emphasis submitted that the prisoner was a victim of obsession and also, as he put it, a victim of infernal feeling of jealousy. There appears from the evidence that the mind of the prisoner was seriously and constantly disturbed for a long time, perhaps for two years, prior to the commission of the offence. On the other hand, from the evidence and statements made to the Court, it appears that when the appellant met the deceased in the fields he made use of a lethal weapon without provocation. He fired twice at the deceased from close range with a sporting-gun while at the time the deceased was sitting with his daughter driving a tractor. The father was killed and the daughter sitting beside him was seriously injured. That the prisoner meant to kill the deceased cannot be doubted.

We are of the opinion that the prosecution in, not preferring a charge of premeditated murder must have taken into account the mitigating circumstances put forward in favour of the prisoner. In passing sentence the Court has on the one hand to bear in mind the interest of the public, the deterrent effect of such sentence, and, on the other hand, the individual involved and the circumstances leading him to the commission of such offence.

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It is true that the majority of the trial Court passed life imprisonment whilst the President of the Court thought 15 years' imprisonment was an appropriate sentence. We have been told here, by the learned counsel for the prosecution, that, under Prison Regulations, life imprisonment means 20 years' imprisonment and such imprisonment is also subject to remission. We here, as a Court of Appeal, can only interfere with the sentences imposed by the lower courts when we find such sentences to be manifestly excessive. It is true that life imprisonment sounds cruel but taking the life of somebody else cannot be less cruel. On the facts of the case, therefore, we are of opinion that the sentence imposed was not an excessive one and the appeal is therefore dismissed.

*Appeal dismissed.*