

SAVVAS DEMETRIOU,

Appellant,

v.

THE POLICE,

Respondents.

(Criminal Appeal No. 2856)

Criminal Law—Sentence—Appeal—Carrying a firearm (shotgun) during close season, contrary to section 7 (1) of the Firearms Law, Cap. 57—Disqualification from possessing gun for three years—Sentence of such disqualification set aside by the Court of Appeal as being, in the circumstances of this case, manifestly excessive and wrong in principle.

Firearms—Firearms Law Cap. 57 (as amended), section 7 (1)—Disqualification from possessing a gun set aside on appeal—See above.

Disqualification from possessing a firearm etc.—See above.

Sentence—Sentence manifestly excessive and wrong in principle—See under Criminal Law above.

Appeal against sentence.

Appeal against the sentence imposed on the appellant who was convicted on the 12th October, 1966, at the District Court of Nicosia (Criminal Case No. 20510/66) on one count of the offence of carrying a firearm during a close season contrary to sections 7 (1) (c) (4) (a) and 27 of the Firearms Law, Cap. 57, as amended by Law 11/59, and was sentenced by Stylianides, D.J., to pay a fine of £5, was bound over in the sum of £50 for two years and was further disqualified from possessing a gun for a period of three years.

X. Syllouris, for the appellant.

A. Frangos, Counsel of the Republic, for the respondents.

The judgment of the Court was delivered by :

TRIANTAFYLIDIS, J.: The appellant in this case appeals against the sentence of disqualification to possess a gun for three years, imposed on him by the District Court of

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Nicosia when he pleaded guilty on the 12th October, 1966, to a charge of carrying a firearm, a shotgun, during a close season, contrary to section 7 (1) of the Firearms Law, Cap. 57. He was also fined £5 and bound over in the sum of £50, for two years ; he does not, however, complain against this part of the sentence.

Appellant contends that, in the circumstances of the case, the sentence of disqualification is manifestly excessive.

The appellant took with him in his car, after he left home as a result of a quarrel with his wife, the shotgun in question ; he had to take with him the shotgun for safe-keeping, in view of the fact that on a previous occasion, when he had again quarrelled with his wife, his wife had thrown the shotgun into a well. It is not suggested, at all, that he was carrying the shotgun with the intention of pursuing game or wild birds.

Under the main part of sub-section (1) of section 7 of Cap. 57, it is not an offence to possess or control, use or carry a firearm if the person concerned is the holder of a certificate of registration and if he has been issued with a firearms licence. There is, however, a proviso to the said sub-section (1) which lays down that " no person shall during any close season as defined in the Game and Wild Birds Protection Law," Cap. 65 use or carry a firearm, except in certain special circumstances, with which we are not concerned in the present case. It is against this proviso that the appellant has offended and, as a result, he has been punished, after having pleaded guilty to the relevant charge.

In our view the said proviso, though found in a section of the Firearms Law, Cap. 57, is clearly intended to serve the objects of the Game and Wild Birds Protection Law, Cap. 65. Inasmuch as it is beyond doubt that the appellant by carrying his shotgun contrary to such proviso was not intending, in the least, to pursue game or wild birds, but he did carry it with him when he left home, in the circumstances on which we have dwelt, we do think that the sentence of disqualification imposed on him is wrong in principle and manifestly excessive and we hereby set it aside. Otherwise the sentence imposed on appellant is left undisturbed.

Appeal allowed. Sentence of disqualification set aside.