

SOTERIS PPAIS,

Appellant.

v.

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SOTERIS
PPAIS
v.

THE REPUBLIC

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Respondent

(*Criminal Appeal No. 2892*)

Criminal Law—Sentence—Sentence of imprisonment—Appeal against sentence as being manifestly excessive—Causing grievous harm and entering a dwelling house by night—Sections 231 and 293 of the Criminal Code Cap. 154, respectively—A kind of crime very rare in Cyprus—Sentence not manifestly excessive but, on the contrary, a lenient one— Court of Appeal would not be prepared to interfere even if trial Court had imposed a heavier sentence.

Cases referred to :

The Attorney-General of the Republic v. Stavrou and others.
1962 C.L.R. 274.

Appeal against sentence.

Appeal against the sentence imposed on the appellant who was convicted on the 14.2.67 at the Assize Court of Kyrenia (Criminal Case No. 1751/66) on two counts of the offences of causing grievous harm and entering a dwelling house by night with intent to steal, contrary to sections 232 and 293 of the Criminal Code Cap. 154, respectively, and was sentenced by Loizou, P.D.C., Savvides and Stylianides, D.JJ., to one year's imprisonment on the first count and to two years' imprisonment on the second count, the sentences to run concurrently.

L. Papaphilippou, for the appellant.

S. Georgiades, Counsel of the Republic, for the respondent.

The facts sufficiently appear in the judgment of the Court delivered by :

JOSEPHIDES, J.: The appellant in this case pleaded guilty to a charge of grievous harm and another charge of entering a dwelling house by night with intent to steal, and he was sentenced by the Assize Court of Kyrenia to a sentence of one year's imprisonment on the first charge and to a sentence of two years' imprisonment on the second charge, to run concurrently, from the 14th February, 1967. He now

appeals against sentence on the ground that it is manifestly excessive. Both offences carry a maximum penalty of 7 years' imprisonment.

The accused, who is 28 years old, married and has two children, entered the house of an English lady living by herself in a big house in the village of Lapithos. He was accompanied by another young man and it was late at night when the complainant found them in her house with improvised masks on their faces. She struggled with them and managed to unmask the appellant whom she eventually identified at the Police Station. In the course of the struggle the complainant's left ring finger was broken, but the Court was informed that she had no ill feelings against her assailants and that she had forgiven them. The appellant's companion was sentenced to 9 months' imprisonment for criminal trespass and he has not appealed.

The present appellant was the moving spirit behind the preconceived plan to enter the complainant's house late that night ; he is the older in age, he had lived in England and he used a lot of prompting on his companion to persuade him to take part in the commission of the crime.

His Counsel in submitting that the sentence was manifestly excessive, having regard to his good character and to the fact that he had no previous convictions, referred to a previous case decided by the High Court of Justice in 1962, namely that of *The Attorney-General of the Republic v. Stavrou and Others*, 1962 C.L.R. 274. Suffice it to say that the facts of that case are completely different from those in the present case. That was a case of shop-breaking and stealing by young men between the ages of 20 and 23. In the present case we have a much older man who carefully planned this crime and entered by night the house of a foreign woman, living by herself, and attacked her cowardly, breaking her finger. Fortunately, this kind of crime is very rare in Cyprus and the Courts are not prepared to allow persons like the appellant—who are very few—to spoil the good name of this country. We are of the view that, in the circumstances of this case, not only the sentence is not manifestly excessive but that, on the contrary, it is a lenient one, and we would even go further and say that had the Assize Court imposed a heavier sentence we would not be prepared to interfere.

For these reasons the appeal is dismissed but the sentence is to run from today.

Appeal dismissed. Sentence to run from today.