

ANDREAS PANAYIOTOU GRIVAS AND ANOTHER,

Appellants,

v.

THE POLICE,

Respondents.

ANDREAS
PANAYIOTOU
GRIVAS
AND ANOTHER
v.
THE POLICE

(*Criminal Appeal Nos. 2968-2969*)
(*Consolidated*)

Criminal Procedure—Plea—Plea of guilty—Appeal—Appeal against conviction after plea of guilty—The matter is governed by the provisions of section 135 of the Criminal Procedure Law, Cap. 155, as read and applied by this Court in the case Ioannis Klonarou v. The District Officer etc. (1963) 1 C.L.R. 47 ; and in a number of subsequent cases the most recent of which is Athlitiki Efimeris “ O Philathlos ” and another v. The Police (reported in this part at p. 249 ante).

Appeal—Plea of guilty—Appeal against conviction after a plea of guilty—See above under Criminal Procedure.

Plea of guilty—Conviction—Appeal against conviction after such plea—See above.

Criminal Law—Possessing cannabis contrary to sections 6, 21 and 24 (1) (2) of the Narcotic Drugs Law, 1967 (Law No. 3 of 1967) and Regulation 5 of the Dangerous Drugs Regulations, 1967.

Narcotic Drugs—Possession—Cannabis—See above under Criminal Law.

Dangerous Drugs—Cannabis—See above under Criminal Law.

Cannabis—Possessing—See above under Criminal Law.

Cases referred to :

Ioannis Stylianou Klonarou v. The District Officer etc. (1963)
1 C.L.R. 47 ;

Athlitiki Ephimeris “ O Filathlos ” and Another v. The Police
(reported in this part at p. 249 ante).

1967
Nov. 23

—
ANDREAS
PANAYIOTOU
GRIVAS
AND ANOTHER
v.
THE POLICE

The case is reported mainly on the question of the appeal against conviction after a plea of guilty, the Supreme Court reaffirming the principles laid down on the subject in previous cases. The facts sufficiently appear in the judgment of the Court.

Appeal against conviction.

Appeal against conviction by the appellants who were convicted on the 20th October, 1967 at the District Court of Limassol (Criminal Case No. 9150/67) on one count of the offence of possessing cannabis, contrary to sections 6, 21 and 24 (1) (2) of Law 3/67 and Reg. 5 of the Dangerous Drugs Regulations 1967 and contrary to s. 20 of the Criminal Code Cap. 154 and were sentenced by Kakathymis, D.J., to 18 months' and 15 months' imprisonment, respectively.

Appellants, in person.

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

The judgment of the Court was delivered by :

VASSILIADES, P.: The two appeals before us, Nos. 2968 and 2969, arise from the same case and were heard together under a consolidation order made in due course. The former is the appeal of the first accused in case No. 9150/67 in the District Court of Limassol, and the latter is that of the second accused in the same case. They are appeals taken on the formal notice supplied to prisoners by the Prison authorities on request after their admission to the Central Prison. The notices were apparently prepared without legal aid, they are both signed by the appellants personally and they give as ground of appeal that each appellant is "innocent" and appeals against his conviction.

The two appellants were jointly prosecuted for possessing Cannabis (the well known smoking drug) contrary to sections 6, 21 and 24 (1) (2) of Law 3/67 and Regulation 5 of the Dangerous Drugs Regulations Not. 115/67. In the particulars the charge states that on May 6, 1967, the appellants were in possession of 400 drams of "dried flowering tops of Cannabis Sativa plant".

The Police, acting on information caught the appellants redhanded in the commission of the offence, soon after midnight while they were transporting the dangerous

drug in question ; and at appellants' own request took a statement from them, after caution, in which each appellant gave his own version of how he came to be implicated in the commission of the offence.

Charged with the offence before the District Court of Limassol on October 19, 1967, the two appellants pleaded guilty, and the Court after hearing the prosecuting officer on the facts, and separate counsel on behalf of each appellant *on their respective version and in mitigation*, convicted the appellants ; and adjourned the case until the following morning for sentence, remanding them both in custody.

The following day, October, 20, the trial Judge passed sentence on the appellants, 18 months on the former and 15 months imprisonment on the latter, stating his reasons for such sentence and for the differentiation made between the two accused. The Judge's note on the record is short and clear on both these points. He took the view that the punishment provided by the legislator is imprisonment up to ten years and fine up to £1,000, increased to this extent by a recent amendment of the law which clearly reflects, as the learned trial Judge rightly pointed out, the seriousness of the offence as seen by the legislator. The differentiation between the two accused is based on the fact that the second is considerably younger and was drawn into the commission of the offence by the elder accused. Moreover, the Judge took into consideration the fact that the second appellant at first did not realise that he was getting involved in this dangerous expedition, but blamed him for continuing to remain with the other culprit after realising the position and for failing to avail himself of two opportunities presented to him to get out of trouble.

Addressing this Court each of the appellants tried to exculpate himself by blaming others, apparently the first witness named in the charge at whose request, the appellants said, they were carrying the stuff at the material time. Apparently neither is able to appreciate that in the circumstances of this case, as they appear on the record and in the face of their plea to the charge while in the hands of their lawyer, their appeal against conviction is untenable.

Appeals against conviction after a plea of guilty are governed by the provisions of section 135 of the Criminal Procedure Law (Cap. 155) as read and applied by this Court in *Ioannis Stylianou Klonarou v. The District*

1967
Nov. 23
—
ANDREAS
PANAYIOTOU
GRIVAS
AND ANOTHER
v.
THE POLICE

1967
Nov. 23

—
ANDREAS
PANAYIOTOU
GRIVAS
AND ANOTHER
v.
THE POLICE

Officer etc. (1963) 1, C.L.R. 47 ; and in a number of subsequent cases, one of the most recent of which is Criminal Appeals No. 2938 and 2939 *Athlitiki Efimeris "O Philathlos" and Another v. The Police*, (reported in this part at p. 249 *ante*). The matter is fully covered there in the Judgment of the Court, delivered by Mr. Justice Josephides.

We are unanimously of opinion that there is no merit in either of these appeals and they must both be dismissed. In the circumstances concerning each of the appellants we shall make no directions regarding the first appellant (Andreas Panayiotou Grivas) whose sentence shall, therefore, run according to law from today; but we direct that the sentence of the second appellant (Michael Paraskevas Mikis) shall run from the date of conviction.

Order accordingly.

*Appeals dismissed. Sentences
to run as stated above.*