

1971  
July 5

[TRIANTAFYLLIDES, P., L. LOIZOU, A. LOIZOU, JJ.]

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COSTAS IOANNOU  
KOLLITIRIS  
v.  
THE POLICE

COSTAS IOANNOU KOLLITIRIS,

*Appellant,*

v.

THE POLICE,

*Respondents.*

(Criminal Appeal No. 3266).

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*Sentence—Common assault on wife contrary to section 242 of the Criminal Code, Cap. 154—One year's imprisonment—Appellant an alcoholic and burdened with a long list of similar convictions—Breach of recognizance for similar offence taken into account—Sentence held neither manifestly excessive nor wrong in principle—Appeal dismissed.*

*Sentence—Assessment—Primarily the task of trial Courts—Principles on which the Court of Appeal will interfere with such assessment.*

*Common assault—Section 242 of the Criminal Code—Sentence—Appeal against sentence—Dismissed.*

*Appeal—Sentence—Approach of the Appellate Court to appeals against sentence—See supra.*

The facts of the case sufficiently appear in the judgment of the Court, whereby they dismissed this appeal against sentence on a charge for common assault on wife.

#### **Appeal against sentence.**

Appeal against sentence by Costas Ioannou Kollitiris who was convicted on the 5th June, 1971 at the District Court of Paphos (Criminal Case No. 1859/71) on one count of the offence of common assault contrary to section 242 of the Criminal Code Cap. 154 and was sentenced by Boyadjis, D.J. to one year's imprisonment.

Appellant appears in person.

*S. Nicolaidis, Counsel of the Republic, for the Respondents.*

The judgment of the Court was delivered by:-

TRIANAFYLLIDES, P.: The Appellant appeals against a sentence of one year's imprisonment imposed on him by the District Court of Paphos in respect of the offence of common assault, contrary to section 242 of the Criminal Code, Cap. 154.

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The victim of the assault was the Appellant's wife and the assault was, indeed, a quite brutal one. Though the Appellant had been getting on well with his wife in the past, he had lately been ill-treating her because of certain differences which arose between them; he used to come home drunk and beat up his wife.

He has a very long list of fifty-five previous convictions, starting in 1937 and continuing up to 1970. Most of them are for drunkenness or for assault. As recently as the 22nd October, 1970, he was bound over in the sum of £85 for two years to keep the peace for having assaulted another woman.

The learned trial Judge took into account that the Appellant committed the present offence while the aforesaid recognizance was still in force; he, also, was of the view that as the Appellant is an alcoholic he would benefit by a period of imprisonment of such a length as could help him to rid himself of his addiction to alcohol. The trial Judge in passing sentence took, too, into consideration the recognizance and, thus, the Appellant is not to be punished further for breach thereof.

In the circumstances we do not feel inclined to interfere with the sentence of the trial Court. It is neither manifestly excessive nor wrong in principle. The assessment of sentence is primarily the task of trial Courts and an appellate Court should not interfere with such assessment even if its members feel that the sentence imposed is severe but not manifestly excessive; thus, even if it might be said that the sentence imposed on this Appellant is severe and we might, if we were dealing with his case as a Court of first instance, have imposed a slightly shorter term of imprisonment, this is not a sufficient ground entitling us, or requiring us, to interfere with the sentence imposed on him by the Court below. His appeal is, therefore, dismissed, but we have decided to make his sentence run from the date of his conviction.

*Appeal dismissed.*