

1971
July 5

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

THE ATTORNEY-
GENERAL OF
THE REPUBLIC
v.

DEMETRIS
CHRISTOFOROU
KKAFAΣ

THE ATTORNEY-GENERAL OF THE REPUBLIC,

Appellant,

v.

DEMETRIS CHRISTOFOROU KKAFAΣ,

Respondent.

(*Criminal Appeal No. 3251*).

Criminal Procedure—Appeal—Appeal by the Attorney-General against inadequacy of sentence of fine on a charge of assaulting policeman acting in due execution of his duty contrary to s.244(b) of the Criminal Code Cap. 154—Abandonment—Section 142 of the Criminal Procedure Law, Cap. 155.

Appeal—Abandonment—Expression of view notwithstanding abandonment of appeal.

Abandonment of Appeal—See above under “Criminal Procedure”; “Appeal—Abandonment”.

Per curiam: We think that on the face of it, this is indeed, a case of a serious nature and that had the appeal been heard we would be inclined to treat the monetary sentence which was imposed on the Respondent as being inadequate and impose instead an appropriate sentence of imprisonment.

Cases referred to:

Athanassiades v. Police (1969) 2 C.L.R. 160;

R. v. Gibbon, 31 Cr. App. R. 143.

Appeal against sentence.

Appeal by the Attorney-General of the Republic against the inadequacy of the sentence imposed on the Respondent who was convicted on the 8th April, 1971 at the District Court of Limassol (Criminal Case No. 2489/71) on one count of the offence of assaulting a peace officer contrary to section 244(b) of the Criminal Code Cap. 154, and was sentenced by Vassiliades, D.J. to pay a fine of £30.—

S. Nicolaidis, Counsel of the Republic, for the Appellant.

No appearance for Respondent.

The judgment of the Court was delivered by:-

TRIANTAFYLIDIS, P.: In this case the Attorney-General of the Republic appealed against a sentence of £30 fine imposed on the Respondent—the accused in Criminal Case No. 2489/71—by a District Judge at Limassol in respect of a charge of assaulting, contrary to section 244(b) of the Criminal Code, Cap. 154, a policeman acting in the due execution of his duty.

The Respondent is a person with previous convictions for offences of a similar nature, including one on the 3rd April, 1962, for assaulting a policeman; on that occasion he was fined £2.

This appeal was fixed originally for the 17th June, 1971, but its hearing did not commence on that date because counsel stated that it was being considered, on the part of the Attorney-General, whether or not to abandon this appeal; and, in the end, notice of abandonment of the appeal has been filed this morning under section 142 of the Criminal Procedure Law, Cap. 155.

We have no doubt that the Attorney-General decided not to proceed with this case on the basis of good special reasons; and in view of section 142 of Cap. 155, as applied, *inter alia*, in the case of *Athanassiades v. The Police* (1969) 2 C.L.R. 160, this appeal is dismissed.

We feel, however, that—as was done in the case of *R. v. Gibbon*, 31 Cr. App. R. 143—we can express a view regarding the present case, notwithstanding the fact of its abandonment: We think that on the face of it, this is, indeed, a case of a serious nature and that had the appeal been heard we would be inclined to treat the monetary sentence which was imposed on the Respondent as being inadequate and impose instead an appropriate sentence of imprisonment.

Appeal abandoned and dismissed.

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