

[TRIANTAFYLIDIS, P., L. LOIZOU, HADJIANASTASSIOU, JJ.]

1971
Dec. 7

YIANNIS GEORGHIOU PAPAGEORGHIOU,

Appellant,

v.

THE REPUBLIC,

Respondent.

YIANNIS
GEORGHIOU
PAPAGEORGHIOU
v.
THE REPUBLIC

(*Criminal Appeal No. 3298*).

Sentence—Four years' imprisonment for carrying a revolver—Section 4 of the Firearms Law, Cap. 57—Undue weight given to the seriousness of the offence and not enough weight to considerations concerning the offender—Sentence manifestly excessive—Reduced to three years' imprisonment.

Firearms—Revolver—Carrying—Sentence—See supra.

Appeal—Sentence—Reduced on appeal as manifestly excessive—See further supra.

The facts sufficiently appear in the judgment of the Court, allowing this appeal against a sentence of four years' imprisonment for carrying a revolver and reducing it as being manifestly excessive in the circumstances.

Cases referred to:

Evangelou v. The Polic (1970) 2 C.L.R. 45 at p. 48.

Appeal against sentence.

Appeal against sentence by Yiannis Georghiou Papageorghiou who was convicted on the 25th October, 1971 at the Assize Court of Famagusta (Criminal Case No. 7021/71) on two counts of the offences of carrying a revolver without a special permit, contrary to sections 4(1)(2)(a) and 27 of the Firearms Law, Cap. 57 (as amended by Laws 11/59, 85/63 and 20/70) and of carrying explosive substances, contrary to section 4(4)(d) of the Explosive Substances Law, Cap. 54, as amended by Law 21/70, and was sentenced by Georghiou, P.D.C., Pikis and S. Demetriou, D.JJ. to 4 years' imprisonment on count 1 and 2 years' imprisonment on count 2, the sentences to run concurrently.

A. Emilianides, for the Appellant.

Cl. Antoniadis, Counsel of the Republic, for the Respondent.

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YIANNIS
GEORGHIOU
PAPAGEORGHIOU
v.
THE REPUBLIC

The judgment of the Court was delivered by:—

TRANTAFYLLIDES, P.: The Appellant appeals against the sentence of four years' imprisonment which was passed upon him by an Assize Court in Famagusta in respect of the offence of carrying unlawfully a revolver, contrary to section 4 of the Firearms Law, Cap. 57.

His counsel has submitted that the sentence is manifestly excessive in the light of all the relevant circumstances. Counsel for the Respondent has stated that had it not been for the prevalence of the offence concerned he would agree that the sentence is manifestly excessive.

There can be no doubt that the unlawful carrying of a firearm is, unfortunately, a not uncommon offence and that, in view of the rather anomalous situation still prevailing in our country, it has to be faced with due severity; but, in assessing sentence, in this case due regard ought to be paid also to the circumstances of the particular offence and to the nature of the particular offender (see, for example, *Evangelou v. The Police* (1970) 2 C.L.R. 45 at p. 48).

It has been very fairly stated by counsel for the Respondent that the Appellant was carrying the revolver in question without any intention to use it for any specific purpose.

The Appellant is a young man, twenty-four years old, married, and his wife is expecting a baby shortly. He is a first offender.

We formed the view, on the basis of the reasons given by the trial Court for passing on the Appellant a sentence of four years' imprisonment, that undue weight was given to the seriousness of the offence and not enough weight to considerations concerning the Appellant. It appears that the Assize Court has assessed the sentence by generalizing too much regarding the nature of the offence and not by individualizing sufficiently the sentence in relation to an offender who had committed a particular offence.

We have decided, without wishing in any way to be misunderstood that we take a lenient view of the kind of offence with which we are concerned in this case, that the sentence appealed from is manifestly excessive and that it is proper to reduce it to three years' imprisonment as from the date of the conviction. This appeal is, therefore, allowed accordingly.

Appeal allowed.