

1972  
May 4

[TRIANTAFYLIDIS, P., STAVRINIDES, A. LOIZOU, JJ.]

KYRIACOS  
GEORGHIOU  
KAKOURIS  
v.  
THE POLICE

KYRIACOS GEORGHIOU KAKOURIS,

*Appellant,*

v.

THE POLICE,

*Respondents.*

(Criminal Appeal No. 3332).

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*Sentence—Two years' imprisonment for indecent assault on a female—Section 151 of the Criminal Code, Cap. 154—Trial Judge of opinion that Appellant in need of psychiatric treatment—Term of imprisonment should have been not the maximum allowed by law, but such as would render psychiatric and generally institutional treatment effective—Sentence wrong in principle—Reduced—Moreover from Appellant's previous record and personal circumstances he could be reformed by a sentence of a shorter duration.*

*Sentence — Indecent assault — Appellant in need of psychiatric treatment — Appellant's reformation — See, under "Sentence" above.*

*Indecent Assault—Sentence—See, under "Sentence" above.*

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

Appeal against sentence by Kyriacos Georghiou Kakouris who was convicted on the 29th February, 1972, at the District Court of Nicosia (Criminal Case No. 164/72) on two counts of the offences of criminal trespass contrary to section 280 of the Criminal Code Cap. 154 and of indecent assault on a female contrary to sections 151 and 35 of the Criminal Code and was sentenced by Colotas, D.J. to three months' imprisonment on count 1 and to two years' imprisonment on count 2, the sentences to run concurrently.

*P. Maxioutis, for the Appellant.*

*M. Kyprianou, Senior Counsel of the Republic, for the Respondents.*

The judgment of the Court was delivered by:-

1972  
May 4

TRIANTAFYLIDIS, P.: The Appellant has been sentenced to two years' imprisonment for indecent assault on a female, contrary to section 151 of the Criminal Code, Cap. 154, and to three months' imprisonment for entering, on the same occasion, the house where the said female was; both sentences to run concurrently.

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KYRIACOS  
GEORGHIOU  
KAKOURIS  
v.  
THE POLICE

The victim of the offence was a young girl, ten years old; there is no doubt that this is a most serious case meriting severe punishment.

The Appellant is forty-eight years old and has been married since 1968. He has a previous criminal record which shows that in 1954 he was imprisoned for three months, and in 1955 he was bound over in the sum of £50 for two years to come up for judgment, in respect of indecent acts; then, in 1963 he was sent to prison for four months for incitement to commit an offence of an immoral nature.

Counsel for the Appellant stressed, both before the Court below and before this Court, that the Appellant is a person psychologically abnormal; and this was accepted by the trial Judge, because he stated in passing sentence that it would be advisable for the Appellant, while in prison, to undergo psychiatric treatment so as to be helped to solve his psychological problems. That he is to a certain extent abnormal is shown, also, by a Social Investigation Report, which is part of the record.

The Judge having taken everything into account said: "In the light of all the above circumstances I believe that it is proper to protect young children in particular and the community in general against the accused for the longest period which the law allows"; and the term of two years' imprisonment imposed in respect of the charge for indecent assault is the maximum allowed by the law.

We think that the sentence of two years' imprisonment is wrong in principle since, on the basis of the view taken by the trial Judge himself, namely that the Appellant needed psychiatric treatment, the length of his imprisonment should have been, not the maximum allowed by the law, but such as would render psychiatric and generally institutional treatment effective, so that the Appellant would cease to be a social

1972  
May 4  
—  
KYRIACOS  
GEORGHIOU  
KAKOURIS  
v.  
THE POLICE

menace. Also, taking into account that the last time when the Appellant committed a similar, or any other offence, was nine years ago, that never before had he been sent to prison for a period longer than six months (in 1943), and that since his last offence in 1963 he has married and settled down, we do not think that the view was warranted that he is a man who could not be reformed by a sentence of a shorter duration than the maximum of two years allowed under the law. Indeed, such a sentence could have been imposed only if all hope of reforming the Appellant and protecting society from him, by any lesser period of imprisonment, had been lost; and in this case this does not, in our view, seem to be so yet.

In the light of all the foregoing considerations we think that we should reduce the sentence of two years' imprisonment for the indecent assault to one of fifteen months as from the date of conviction. The sentence for the other charge remains undisturbed, to run concurrently.

We definitely share the view of the trial Judge that the Appellant must be afforded any treatment which the appropriate authorities may find that he is in need of; and we hope that he has learnt a lesson and that hereafter he will not indulge in any criminal conduct because he cannot then expect any leniency on the part of the Courts.

*Appeal allowed.*