

HACHEM MOHAMED ESPER,

*Appellant.*

HACHEM  
MOHAMED  
ESPER

v.

THE REPUBLIC,

*Respondent.*

THE REPUBLIC

(*Criminal Appeal No. 3348*).

*Sentence—Narcotic drugs—Unlawful importation and possession of narcotic drugs—Five and three years' imprisonment, respectively—Seriousness of the offence from the point of view of the rule of law both in Cyprus and internationally—Sentence though severe not manifestly excessive or wrong in principle.*

*Narcotic drugs—Sentence—See supra.*

*Foreigner—Sentence of imprisonment.*

This is an appeal against sentence by a person (foreigner) convicted and sentenced on a charge of unlawful importation and possession of narcotic drugs. Dismissing the appeal, the Court:—

*Held*, (1). The offences to which the Appellant pleaded guilty are serious offences from the point of view of the rule of law both in Cyprus and internationally, especially when it is borne in mind that such offences were committed with the intention of trading in the drug in question. We see, therefore, no reason for interfering with the sentence imposed, which, though severe, is not manifestly excessive or wrong in principle.

(2) The Appellant has complained to us that he is suffering very much in prison because he is among persons who do not speak his own language (Arabic)—and that he is serving his sentence away from his family. As pointed out in *Wheeler v. The Police*, 1964 C.L.R. 83, this is a consideration which cannot be taken into account judicially as a ground for reducing sentence; but it is a matter to be considered by the appropriate organs at a later stage (under Article 53 of the Constitution).

*Appeal against sentence dismissed.*

*Sentence to run from the date of conviction.*

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Cases referred to:

*Wheeler v. The Police*, 1964 C.L.R. 83.

### Appeal against sentence.

Appeal against sentence by Hachem Mohamed Esper who was convicted on the 8th May, 1972 at the Assize Court of Nicosia (Criminal Case No. 1543/72) on 2 counts of the offences of importing narcotic drugs contrary to sections 4 and 24 of the Narcotic Drugs Law, 1967 and regulation 21 of the Narcotic Drugs Regulations, 1967 and of possessing narcotic drugs contrary to sections 6 and 24 of the Narcotic Drugs Law, (*supra*) and regulation 5 of the Narcotic Drugs Regulations, (*supra*) and was sentenced by Stavrinakis, Ag. P.D.C., Papadopoulos, D.J. and Pierides, Ag. D.J. to five years' imprisonment on the first count and to three years' imprisonment on the second count, the sentences to run concurrently.

Appellant appeared in person.

*N. Charalambous*, Counsel of the Republic, for the Respondent.

The judgment of the Court was delivered by:—

TRIANTAFYLLIDES, P.: The Appellant has been convicted, on his own plea, of the offences of unlawful importation of a narcotic drug, namely 593 grams of cannabis resin, and of unlawful possession of such drug. There were passed upon him concurrent sentences of imprisonment for five years and three years, respectively, as from the 8th May, 1972.

The trial Court took the view, on the basis of the facts placed before it, that the Appellant had imported the drug with intention to trade in it. Today the Appellant has stated that he did not intend to sell this drug in Cyprus, but to take it with him to France—where he was proceeding via Cyprus—for his own use during his stay there. This version of the Appellant appears to us to be quite inconsistent with the whole factual context of the case; and it is to be noted that though he was defended by counsel before the Court below his counsel never put forward such a version; we cannot, therefore, accept it.

The Appellant has made reference, in mitigation of sentence, to his family circumstances; but such circumstances were

placed before the trial Court which took full account of them, as it appears from its judgment.

We are in agreement with the trial Court that the offences to which the Appellant has pleaded guilty are very serious offences from the point of view of the rule of law both in Cyprus and internationally, especially when it is borne in mind that such offences were committed with the intention of trading in the drug in question.

We see, therefore, no reason for interfering with the sentences imposed by the trial Court, which, though severe, cannot, in any way, be said to be manifestly excessive or wrong in principle.

The Appellant has complained to us that he is suffering very much in prison because he is among persons who do not speak his own language—Arabic—and that he is serving his term of imprisonment away from his family. As pointed out in, *inter alia*, *Wheeler v. The Police*, 1964 C.L.R. 83, this is a consideration which cannot be taken into account judicially as a ground for reducing sentence, but it is a matter to be considered by the appropriate organs at a later stage (under Article 53 of the Constitution).

In the circumstances this appeal is dismissed; but we direct that the sentences should run from the date of conviction.

*Appeal dismissed.*

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