

1973
Dec. 5

[TRIANTAFYLLIDES, P., STAVRINIDES, MALACHTOS, JJ.]

THEODORITOS
ANTONIOU
v.
THE POLICE

THEODORITOS ANTONIOU,

Appellant,

v.

THE POLICE,

Respondents.

(*Criminal Appeal No. 3516*).

Sentence—Assault—Aggravated assault—Sentence of six months' imprisonment imposed on a young offender aged fifteen years—Neither manifestly excessive nor wrong in principle in view of contents of the Social Investigation Report and the Medical Report.

Assault—Aggravated assault—Section 243 of the Criminal Code, Cap. 154—Sentence of six months' imprisonment—Not disturbed on appeal—See supra.

Young Offender—Aged fifteen years—Assault—Sentence of imprisonment—Social Investigation and Medical Reports—See supra.

The facts sufficiently appear in the judgment of the Court dismissing the appeal.

Cases referred to:

Kefalos v. The Police (1972) 2 C.L.R. 1.

Appeal against conviction.

Appeal against conviction by Theodoritos Antoniou who was convicted on the 5th October, 1973 at the District Court of Paphos (Criminal Case No. 1849/73) on one count of the offence of aggravated assault contrary to section 243 of the Criminal Code, Cap. 154 and was sentenced by Laoutas, D.J. to six months' imprisonment.

N. Aloneftis, for the Appellant.

N. Charalambous, Counsel of the Republic, for the Respondents.

The judgment of the Court was delivered by:—

TRIANTAFYLIDIS, P.: The Appellant has appealed against his conviction for aggravated assault, contrary to section 243 of the Criminal Code, Cap. 154; the assault was committed against his own mother. He was sentenced to six months' imprisonment, as from the 5th October, 1973; he complains, too, that this sentence is an excessive one in the circumstances.

From the facts placed before the trial Court, after he had pleaded guilty, it appears clearly that the Appellant assaulted his own mother, who at the time was ill in bed, in a most violent manner.

Counsel for the Appellant (who has not appeared for the Appellant at his trial) has submitted that we ought to order a new trial because the plea in mitigation before the Court below was inconsistent with the plea of guilty; and he has referred us, *inter alia*, to *Kefalos v. The Police* (1972) 2 C.L.R. 1.

It is correct that counsel who appeared for the Appellant before the trial Court put forward a different version, much more favourable for the Appellant, as regards the circumstances in which he assaulted his mother; but that version amounts still in law to an assault, and, therefore, we cannot agree that the plea in mitigation was inconsistent with the plea of guilty.

Regarding sentence we have found ourselves in considerable difficulty because, as it appears from a social investigation report and a medical report, the Appellant, who was only fifteen years old when he committed the offence in question, is a person who has grown up in very difficult family surroundings and he has, as a result, developed what might be described as an abnormal personality. Confinement, on earlier occasions, in other correctional institutions, does not appear to have done him any good.

From the social investigation report it appears that the Appellant is a person who acts with irresponsibility and he can be, occasionally, really dangerous for others. The medical report states that he has a psychopathic personality, he is sentimentally immature and has aggressive tendencies and antisocial behaviour. We think that the better course, for his own sake, is that he should remain in prison for the full period of the six months' sentence; we expect that the discipline in prison will be of benefit to him to a certain extent. So, we are not prepared

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to pronounce that the sentence passed on him is either manifestly excessive or wrong in principle.

In the result this appeal is dismissed.

Appeal dismissed.