

THE ATTORNEY-GENERAL OF THE REPUBLIC,

Appellant,

ATTORNEY -
GENERAL
OF THE
REPUBLIC

v.

ANDREAS ARESTI,

Respondent

v.
ANDREAS
ARESTI

(Criminal Appeal No. 3608).

5 *Criminal Law—Sentence—Inadequate sentence—C£20 fine
for carrying passengers for reward contrary to the terms
of his licence—Twenty-five passengers carried in lorry
in a carefully prepared hiding place—Passengers un-
scrupulously exploited, by paying each the exorbitant
fare of C£50, in order to be carried secretly, contrary
to the orders of the security forces, across the line of
military confrontation—Judicial notice of prevalence of
offence committed with the same motive—Sentence in-
10 creased to six months' imprisonment.*

15 *Road Traffic—Carrying passengers for reward contrary to
the terms of his licence—Regulations 16(1), 17(1)(6)(7)
and 71(b) of the Motor Vehicles and Road Traffic
Regulations 1973 and section 19 of the Motor Vehicles
and Road Traffic Law, 1972 (Law No. 86 of 1972)
—Sentence.*

20 The respondent was seen, in the evening of November
23, 1974, driving a lorry which appeared to be loaded
with sacks of straw; when a search was carried out by
the police it was found out that under the sacks there
existed a carefully prepared hiding place in which were
packed twenty-five passengers. women and children.
Respondent admitted that he had received a reward of
25 C£50 per person in order to carry his said passengers
secretly contrary to the orders of the security forces,
across the line of military confrontation. Under the
terms of his licence he was entitled to carry two pas-
sengers without any reward. He was prosecuted for,
30 *inter alia*, carrying passengers for reward contrary to
the terms of his licence and sentenced to pay fines ranging
from C£20 - C£30.

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Upon appeal by the Attorney-General of the Republic against the said sentences, the Court of Appeal took judicial notice of the fact that, in view of the anomalous situation in Cyprus, offences committed with the same motive, have become very prevalent and

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Held, (1) We take a very serious, indeed view of this case because, *inter alia*, of the fact that the respondent, in order to enable himself to break the law without being found out, made very elaborate preparations; and he exploited most unscrupulously his passengers, by extracting from each one of them the exorbitant fare of C£50, in order to carry them secretly contrary to the orders of the security forces, across the line of military confrontation.

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(2) Even though the respondent is a person who has been displaced from his home in the northern, Turkish occupied, areas of Cyprus, we do not think that we can impose on him, in respect of the offence of carrying passengers for reward contrary to the terms of his licence anything less than six months' imprisonment.

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Appeal allowed.

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 26th November, 1974 at the District Court of Larnaca (Criminal Case No. 4621/74) on three counts of the offences of (a) using a motor vehicle without a policy in respect of third party risks contrary to section 3 of the Motor Vehicles (Third Party Insurance) Law, Cap. 333, (b) carrying passengers without fixed seats contrary to regulations 57(1)(d) and 71 of the Motor Vehicles and Road Traffic Regulations, 1973 and section 19 of the Motor Vehicles and Road Traffic Law, 1972 (Law 86/72) and (c) carrying passengers for reward contrary to the terms of his licence, contrary to regulations 16(1), 17(1)(6)(7) and 71 of the Motor Vehicles and Road Traffic Regulations, 1973 and section 19 of the Motor Vehicles and Road Traffic Law, 1972 (Law 86/72) and was sentenced by Constantinides, D.J. to pay the sum of C£30.- fine and was disqualified for 45 days from possessing

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or obtaining a driving licence on the first count and to pay a fine of C£20.- on each of the other two counts.

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

5 D. Papachrysostomou, for the respondent.

The judgment of the Court was delivered by :-

10 TRIANTAFYLLIDES, P. : In the present case the Attorney-General has appealed against the sentences imposed by the District Court of Larnaca in relation to a number of offences, to which the respondent has pleaded guilty, namely (a) in relation to the offence, in count 1, of driving a motor vehicle without being covered by third party insurance, for which he was sentenced to pay a fine of C£30 and be disqualified for forty-five days from
15 possessing or obtaining a driver's licence, (b) in relation to the offence, in count 4, of carrying passengers without fixed seats, for which he was sentenced to pay a fine of C£20, and (c) in relation to the offence, in count 5, of carrying passengers for reward contrary to the terms of
20 his licence, for which he was sentenced to pay a fine of C£20.

The salient facts of this case are that the respondent was seen, in the evening of November 23, 1974, driving a lorry which appeared to be loaded with sacks of straw;
25 when a search was carried out by the police it was found that under the sacks there existed a carefully prepared hiding place in which were packed twenty-five passengers, women and children. In respondent's possession there was found the sum of C£521.500 mils, and he
30 admitted that he had received, for carrying his said passengers, a reward of C£50 per person. Under the terms of his licence he was entitled to carry two passengers without any reward.

We take a very serious, indeed, view of this case
35 because, *inter alia*, of the fact that the respondent, in order to enable himself to break the law without being—as he hoped—found out, made very elaborate preparations; and he exploited most unscrupulously his passengers, by extracting from each one of them the
40 exorbitant fare of C£50, in order to carry them secretly.

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contrary to the orders of the security forces, across the line of military confrontation.

Furthermore, we have taken judicial notice of the fact that, in view of the present anomalous situation in Cyprus, offences committed with the same motive, as that of the respondent in this case, have become very prevalent. 5

Even though the respondent is a person who has been displaced from his home in the northern, Turkish occupied, areas of Cyprus, we do not think that we can impose on him, in respect of count 5, anything less than six months' imprisonment; the sentence to pay a fine in respect of such count is set aside, but the remaining sentences in respect of other counts are not affected. 10 15

Appeal allowed.