

1983 May 3

[HADJIANASTASSIOU, STYLIANIDIS AND PIKIS JJ.]

AHMAD HASSAN SULTAN.

*Appellant*

v.

THE REPUBLIC.

*Respondent.*

*(Criminal Appeal No. 4379).*

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*Criminal Law—Sentence—Narcotic drugs—Possession and possession for purpose of supplying to others—Seriousness of offence—Need that offences involving narcotics should be faced sternly—Fact that appellant a foreigner not a consideration that can weigh in the minds of the Court—Concurrent sentence of two and four years' imprisonment not manifestly excessive or wrong in principle*

The appellant pleaded guilty to the offence of unlawful possession of controlled drugs, to wit 7.450 grams of cannabis resin and to the offence of possession of same for supplying it to others and was sentenced to concurrent sentences of imprisonment for two and four years respectively. He was a Lebanese national aged 21 and the drugs in question were discovered, well hidden, in "lotus" fruit upon his arrival in Cyprus. The appellant undertook for agreed remuneration to carry the narcotics from Lebanon via Cyprus to Italy.

*Upon appeal against sentence.*

*Held*, that the possession, trafficking and dealing with narcotics is a social evil against which an international campaign is being waged; that the Supreme Court time and again stressed that offences involving narcotic drugs have to be faced sternly by the Courts; that the fact that the appellant is meeting difficulties as he is a stranger in a foreign country, not conversant with any of the languages used in this country is a consideration that cannot weigh in the

minds of the Court; that the sentence imposed is neither manifestly excessive nor wrong in principle; accordingly the appeal must fail.

*Appeal dismissed.*

**Appeal against sentence.**

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Appeal against sentence by Ahmad Hassan Sultan who was convicted on the 31st January, 1983 at the Assize Court of Limassol (Criminal Case No. 16503/82) on one count of the offence of unlawfully possessing controlled drugs contrary to sections 2, 3, 6(1)(2), 24(1), 30 and 31 of the Narcotic Drugs Law (Law No. 29/77) and on one count of the offence of possessing controlled drugs for the purpose of supplying them to others contrary to sections 2, 3, 5(1)(b.), 6(3), 24(1), 30 and 31 of the above law and was sentenced by Boyadjis, P.D.C., Artemis, S.D.J. and Eleftheriou, D.J. to 2 years' imprisonment and 4 years' imprisonment respectively; sentences to run concurrently.

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*A. Erotokritou*, for the appellant.

*R. Gavrielides*, Senior Counsel of the Republic, for the respondents.

HADJIANASTASSIOU: The judgment of the Court will be delivered by Mr. Justice Stylianides.

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STYLIANIDES J.: The appellant has been convicted on his own plea of the offences of unlawful possession of controlled drugs, to wit, 7,450 grams of cannabis resin, and possession of same for the purpose of supplying it to others. The Assize Court of Limassol passed upon him concurrent sentences of imprisonment for two years and four years, respectively.

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The undisputed facts of the case are, briefly, as follows:-

The accused, a Lebanese national, aged 21, arrived in Cyprus by boat, carrying with him a suitcase in which there were, inter alia, four nylong bags. In two of the bags there were 'lotus' fruit, in one olives and in the other almond nuts. As importation of fruit and nuts, without import permit, is prohibited, notwithstanding his insistence, they were kept by the Authorities with the intention of destroying them or handing them over to the owner if he obtained the necessary permit from the Ministry of Agriculture. Shortly later it was discovered that in the "lotus" fruit there was hidden cannabis resin and under the na-

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tural olives there was a substance made in a way to resemble olives which, however, was nothing else but cannabis resin. This was verified by the Government analyst.

5 The accused was arrested at the Larnaca Airport where he was ready to depart by air for Rome via Athens. The accused on his arrest was conveyed to C.I.D. Limassol where he made a clean breast. He admitted that, due to his personal and family circumstances, including his unemployment, accepted an offer by a Lebanese to carry these narcotics from Lebanon to Italy  
10 and deliver them to a dealer of narcotics at Bolivar Hotel in Rome. The appellant would receive a net remuneration for this service amounting to approximately \$ 5,000.-.

The trial Court had before it a social welfare report. The accused is the victim of the plight that befell on his country.  
15 His father was killed in the civil war of 1977 and the accused took up the heavy burden of maintaining his paternal family. Unemployment deteriorated his condition and weakened his will power to resist the temptation of the offer.

20 Learned counsel for the appellant, who is not the one who appeared before the trial Court, stressed the repentance of his client and the individualization of the sentence. He also pointed out that the accused confessed to the Police on the first opportunity and pleaded guilty before the Court.

25 The main purpose of sentence is to enforce the criminal law for the protection of the community against offenders. To protect the hundreds or thousands of people against the few who persistently violate the law and cause such evil to other citizens. Deterrence and prevention of crime are the main objects of punishment. Admittedly one of the purposes of sentence is the  
30 reformation of the offender to become a good law abiding citizen.

35 In the assessment of the extent of sentence the seriousness of the offence, as reflected in the punishment provided by the law, the prevalence of the offence, the evil that it causes to society, the circumstances pertaining to its commission and, certainly, the personal and family circumstances of the accused are taken into consideration. In the treatment of an offender the sentence may be individualized. The remorse and the confession, the help one renders for the detection of the crime and his behaviour

with regard to the crime and the law at all stages, upto and including the trial, are matters to be taken into consideration.

Cyprus nowadays, due to the plight that befell on Lebanon, has become a transit camp for narcotics and this offence is a prevalent one. The Courts of this country have to impose severe sentences of imprisonment to stamp out the social evil of narcotics for the protection not only of the people of Cyprus but of the people all over the world, as this offence is an international one. The Supreme Court time and again stressed that offences involving narcotic drugs have to be faced sternly by the Courts. The possession, trafficking and dealing with narcotics is a social evil against which an international campaign is being waged.

In the present case the offence was well planned. The cannabis resin was hidden in 'lotus' fruit and made to appear as natural olives. The appellant well knew what he was doing for agreed remuneration; he was enlisted to carry the narcotics from Lebanon via Cyprus to Italy and he was caught in the circumstances described earlier on. The personal circumstances of the appellant cannot be overlooked, but the other persons have to be deterred from acting as the appellant has done in promoting the international trade of narcotics.

The trial Court had all the material before it. The sentence imposed is neither manifestly excessive nor wrong in principle. This appellant is meeting difficulties as he is a stranger in a foreign country, not conversant with any of the languages used in this country, who left behind him in misery his paternal family. This is a consideration that cannot weigh in the minds of the Court.

In the light of all that has been said in this judgment, the appeal is dismissed. The sentence is to run from the date that he was in custody for this case.

*Appeal dismissed.*