

1984 December 6

[L. LOIZOU, DEMETRIADES AND SAVVIDES, JJ.]

MICHAEL ANDREA PSYLLA,

Appellant,

v.

THE REPUBLIC

Respondent.

(Criminal Appeal No. 4558).

Criminal Law—Sentence—Burglary and theft—Appellant burdened with a long list of previous convictions for similar offences—In which he was treated leniently—All measures of reformation tried on appellant without encouraging results—Medical report that appellant suffering from personality disorder and imprisonment may cultivate in him an antisocial feeling—In all the circumstances sentence of four years' imprisonment neither manifestly excessive nor wrong in principle, in view, especially, of the alarming increase of offences of this nature. 5

The appellant was convicted, on his own plea, for the offence of burglary and theft of jewellery valued at £24,000 and was sentenced to four years' imprisonment. In passing sentence the trial Court took into consideration another offence of a similar nature: The appellant was aged 26, married with a minor child. At the age of 15 he was committed to the Reform School for a number of breakings and stealings. He had a long list of about 20 other previous convictions, most of them for breaking into churches and stealing money, burglaries, and stealing, all committed between 1975 and 1981. The sentences which were passed on him varied from probation, suspended sentences of imprisonment and terms of imprisonment ranging from 4 to 18 months. In 1979 the Court of Appeal, in the light of the contents of a social investigation report and a medical report set aside a sentence of 12 months' imprisonment, which was passed on the appellant for the offence of breaking and stealing from a church and substituted it for a probation order for two years. According to a psychiatric 25

report, which was before the Assize Court the appellant suffered from personality disorder with two main manifestations: Irritability with impulsive behaviour, and an urge to steal, and that although both have diminished in intensity and frequency he was still in need of prolonged and uninterrupted psychiatric treatment. In the opinion of the doctor, imprisonment would cultivate in the appellant an antisocial feeling and his urge to take revenge against society, through the antisocial practice of thieving.

The stolen property was delivered by the appellant to the police.

Upon appeal against sentence:

Held, that there is nothing to indicate that the sentence imposed on the appellant was in any way wrong in principle and this Court has not been persuaded that in all the circumstances and in view of the alarming increase of offences of this nature, it is manifestly excessive; and that, accordingly, the appeal must be dismissed.

Appeal dismissed.

Cases referred to:

Psylla v. Police (1979) 2 C.L.R. 224.

Appeal against sentence.

Appeal against sentence by Michael Andrea Psylla who was convicted on the 2nd July, 1984 at the Assize Court of Larnaca (Criminal Case No. 5694/84) on one count of the offence of burglary and theft contrary to section 292(a) of the Criminal Code, Cap. 154 and was sentenced by Papadopoulos, P.D.C., Constantinides, S.D.J. and Arestis, D.J. to four years' imprisonment.

Appellant appeared in person.

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

Cur. adv. vult.

L. LOIZOU J. read the following judgment of the Court. The appellant was convicted, on his own plea, by an Assize

Court sitting at Larnaca for the offence of burglary and theft of jewellery valued at some £24,000.- the property of the Nadina Demetriou of Larnaca contrary to section 292(a) of the Criminal Code Cap. 154. He was sentenced to four years' imprisonment.

He has filed the present appeal himself from the central 5
prisons on the ground that the sentence is excessive.

The facts of the case are not in dispute and briefly they are as follows: The appellant is 26 years old, married with a minor child. The offence was committed on the 11th May, 1984 at about 10.00 p.m. The appellant gained access to the dwelling house by opening a pane of a back door and pulling open the bolt on the inside of the door. He searched the house with the help of a torchlight he had with him and found some of the jewellery in the drawer of a bedside table in the bedroom. In the drawer of another bedside table of the same bedroom 10
he found two keys. With one of the keys he opened the wardrobe and with the other a drawer of the wardrobe in which he found more jewellery. He put all the stolen property in a bag and then he locked both the drawer and the wardrobe and put the keys back where he had found them. He left the house 20
through another door which he opened from the inside and closed it again when he went out. He hid the bag with the jewellery in a field near Aradhippou village. The dwelling house in question was that of his then employers.

In passing sentence the Court, at the request of counsel then 25
appearing for the appellant and with the consent of counsel appearing for the prosecution, took into consideration another offence of the same nature committed a few days earlier, which was pending against the appellant. On that occasion he broke open a store room in the yard of the same premises and stole 30
some silver articles which he later sold to a silversmith in Nicosia for £200.-. He was traced and arrested by the police as a result of information given to them by the silversmith to whom the appellant had disclosed his name. After his arrest for that case, the appellant made a voluntary statement to the police 35
in which he admitted both offences and described in some detail how he had committed them. He also led the police to the place where the bag with the stolen property was hidden and delivered it to them.

At the age of 15 the appellant was committed to the Reform School for a number of breakings and stealing.

5 He has, in addition, a long list of about 20 other previous convictions, most of them for breaking into churches and stealing money, burglaries and stealing, all committed between 1975 and 1981. The sentences passed on him for these previous convictions varied from probation, suspended sentences of imprisonment and terms of imprisonment ranging from 4 to 18 months.

10 The Assize Court had also before it a social investigation report and a psychiatric report. It appears from the former that various measures of reformation were tried on the appellant but without encouraging results, in spite of the help of society and the support of his family.

15 The psychiatrist who made the report, gives it as his opinion that the appellant suffered from personality disorder with two main manifestations: (a) Irritability with impulsive behaviour, and (b) an urge to steal, and that although both have diminished in intensity and frequency he is still in need of prolonged and 20 uninterrupted psychiatric treatment. In the opinion of the doctor, imprisonment will cultivate in the appellant an antisocial feeling and his urge to take revenge against society, through the antisocial practice of thieving.

25 It is, we think, pertinent to note that the appellant was before this Court in October, 1979, again on appeal from a sentence of 12 months' imprisonment passed on him for the offence of breaking and stealing from a church. (*Michalakis Andreou Psylla v. The Police* (1979) 2 C.L.R. 224). In that case also the Court had before it a medical report and a social investigation 30 report. The medical report, which was given by the same doctor who gave the report in the present case, was to the effect that his condition was improving. In the social investigation report it was stated that the appellant had during that year got married and that the couple were getting on very well; and that the appellant 35 had found steady employment and his employers were satisfied with his work.

The Court of Appeal, in the light of the above facts, to which the trial Court had not given due weight, set aside the sentence

of imprisonment and substituted it for a probation order for two years.

Since then the appellant has committed several offences but in none of them was he sent to prison.

In a long address in mitigation of his sentence before this Court the appellant stressed the fact that for two and a half years he has not committed any offence; that in spite of the high value of the stolen property he has admitted the offence, after he was arrested, and delivered it to the police; and his psychological and family circumstances. 5 10

Reading the careful and detailed judgment of the Assize Court it is abundantly clear to us that all relevant considerations were duly taken into account but the Court, nevertheless, felt bound to impose the sentence of imprisonment appealed from as the appellant had failed to take advantage of the many opportunities afforded to him in the past and had become a menace to society. 15

There is nothing to indicate that the sentence imposed on him was in any way wrong in principle, nor have we been persuaded that in all the circumstances and especially in view of the alarming increase of offences of this nature, it is manifestly excessive. 20

In the result, we dismiss the appeal. We have no doubt that the prison authorities will see to it that the appellant will have all the necessary treatment that he may be in need of while serving his sentence. 25

Appeal dismissed.