

1985 July 31

[TRIANTAFYLIDIS, P., LORIS, KOURRIS, JJ.]

FLOURENTZOS GEORGHIOU,

Appellant,

v.

THE POLICE,

Respondents.

(Criminal Appeal No. 4654).

Criminal Law—Sentence—Grievous harm contrary to section 231 of Cap. 154—Husband, bread winner of his family, causing grievous harm to his wife—Reconciled with his wife—First offender—Sentence reduced from nine to two months' imprisonment.

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The appellant, a plumber by occupation, earning £300.-net monthly wages, was sentenced on his own plea of guilty for the offence of grievous harm contrary to section 231 of the Criminal Code, Cap. 154 to nine months' imprisonment.

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The appellant is the sole supporter of his family consisting of his wife and four children. On 1.12.1984 appellant returned to his home with an envelope containing his monthly wages. His wife tried to snatch the envelope from him, an argument ensued and the appellant got and raised a broomstick to strike his wife. The wife interposed her left hand which received the impact resulting in the fracture of the 5th metacarpal bone.

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The appellant is a first offender. He reconciled with his wife.

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The appellant appealed against the above sentence.

Held, allowing the appeal and reducing the sentence to two months' imprisonment, that the trial Court gave undue weight to the seriousness of the offence and failed to

take into consideration the fact of appellant's reconciliation with his wife and that "he is the bread winner of his family and, therefore, his stay in prison indirectly affects them adversely, too, in that they are suffering privations so long as he is out of work and in prison". In the circumstances the sentence is manifestly excessive.

Appeal allowed.

Sentence reduced.

Cases referred to:

10 *Nicolaou v. The Police* (1980) 2 C.L.R. 4.

Appeal against sentence.

15 Appeal against sentence by Flourentzos Georghiou who was convicted on the 5th June, 1985 at the District Court of Limassol (Criminal Case No. 12038/85) on one count of the offence of grievous harm contrary to section 231 of the Criminal Code, Cap. 154 and was sentenced by Artemis, S.D.J. to nine months' imprisonment.

A. Andreou, for the appellant.

A. Vladimirov, for the respondents.

20 TRIANTAFYLIDIS P.: The judgment of the Court will be delivered by Mr. Justice Kourris.

25 KOURRIS. J.: This is an appeal against the sentence of nine months' imprisonment imposed by a Judge of the District Court of Limassol on the 5.6.85 on the appellant on his own plea of guilty for the offence of grievous harm, contrary to s. 231 of the Criminal Code, Cap. 154.

30 The appellant is 41 years of age and married his wife when he was 22 years old and she was 17 years old. On the 1.12.1984 he returned to his home from his work bringing with him an envelope containing his monthly wages. His wife tried to snatch it from him, an argument ensued and the appellant got a broomstick and raised it to strike his wife. The wife interposed her left hand which

received the impact resulting in the fracture of the 5th metacarpal bone.

The appellant is the sole supporter of his family consisting of his wife and four children. He is first offender and has reconciled with his wife. He is a refugee from Achna village, in the district of Famagusta and he is now residing with his family at Kōlossi Refugee Settlement in the district of Limassol. He is a plumber by occupation employed by the British Authorities at Episkopi Sovereign Base earning £300.- net monthly wages.

We formed the view that the trial Court in passing sentence on the appellant of nine months' imprisonment, gave undue weight to the seriousness of the offence and he failed to take into consideration that the appellant reconciled with his wife and that "he is the breadwinner of his family and, therefore, his stay in prison indirectly affects them adversely, too, in that they are suffering privations so long as he is out of work and in prison", (Per Triantafyllides, P., in the case of *Nicolaou v. The Police* (1980) 2 C.L.R. 4 at p. 6).

In the said case the appellant was sentenced to nine months' imprisonment for assaulting his wife and 14 years old son and on appeal his sentence was reduced to three months' imprisonment although he had a rather bad criminal record.

In the circumstances, we think that the sentence of nine months' imprisonment is manifestly excessive and that one of two months' imprisonment is sufficient to punish the appellant for the offence in question.

We allow the appeal and we set the sentence aside as manifestly excessive and we reduce the sentence to two months' imprisonment from the date of conviction.

In the result the appeal is, therefore, allowed accordingly.

Appeal allowed.
Sentence reduced.