

1986 December 16

[A. LOIZOU, MALACHTOS, DEMETRIADES, JJ.]

KAMIL MOHAMED SAID KABBARA,

Appellant.

v.

THE REPUBLIC,

*Respondent.**(Criminal Appeal No. 4781).*

Sentence—Possession of controlled drug (39.5 grams of cocaine), and supplying on two occasions the same person in Larnaca with such controlled drug (half and one grams of cocaine)—Appellant aged 21, coming from Lebanon—Offence attributed to his tragic experience from a very young age due to the situation prevailing in that Country —Fact that the drug was pushed onto the Cyprus market is an aggravating factor—Four years' imprisonment on each of the three counts, the sentences to run concurrently —Upheld.

The appellant, who comes from Lebanon, is 21 years of age. A substance weighing 39.5 grams containing 26% of cocaine was found in his possession. The appellant revealed to the police that on two occasions he supplied Charalambos Georghiou Charalambous, of Larnaca half and one grams of cocaine for which he was paid £20:- for each dose. Counsel for the appellant attributed the commission of the offence to the tragic experience of the appellant from a very young age on account of the conditions prevailing in his country. The appellant complained that the sentence of four years' imprisonment is manifestly excessive.

Held, dismissing the appeal: (1) The calamity that has befallen to our neighbouring country should not sway the Cyprus Courts from doing their duty in protecting our

5 people and in a wider context other peoples too from the social menace of trafficking in narcotics. As it has been stressed by this Court in *El-Etri and Others v. The Republic* (1985) 2 C.L.R. 40. deterrent sentences are essential in this kind of cases for more reasons than one.

(2) The fact that in this case the drug was pushed onto the Cyprus market is a, most worrying situation, and constitutes an aggravating factor. There is no merit in this appeal.

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*Appeal dismissed.***Cases referred to:***El-Etri and, Others v. The Republic* (1985) 2 C.L.R. 40.**Appeal against sentence.**

15 Appeal against sentence by Kamil, Mohamed, Said Kabbara, who was convicted on the 23rd September, 1986 at the Assize Court of Larnaca (Criminal Case No. 10864/86), on one count of the offence of possessing controlled drugs contrary to sections 2, 3, 6(1)(2), 30 and 31 of the Narcotic Drugs and Psychotropic Substances Law, 1977
20 (Law No. 29/77), and on two counts of the offence of supplying controlled drugs to another person, contrary to sections 2, 3, 5(1)(b)(3)(a), 30 and 31 of the above Law and was sentenced by Papadopoulos, P.D.C., Constantinides, S.D.J. and G. Nicolaou, D.J. to concurrent
25 terms of four years' imprisonment on each count.

Appellant appeared in person.

A. M. Angelides, Senior Counsel of the Republic, for the respondent.

30 A. Loizou J. gave the following judgment of the Court. The appellant was sentenced by the Assize Court of Larnaca to four years imprisonment on each of the three counts, sentences to run concurrently. The first one was for possession of controlled drugs of Class (A) of Part 1 of the First Schedule, namely, 39.5 grams of cocaine
35 contrary to Sections 2, 3, 6(1)(2), 30 and 31 of the Narcotic Drugs and Psychotropic Substances Law, 1977

(Law No. 29 of 1977) as amended by Law No. 67 of 1983 without a permit from the Minister of Health and the second and third counts for supplying on two different dates such controlled drug, i.e. half and one grams of cocaine respectively to another person in Larnaca, namely Charalambos Georghiou Charalambous, contrary to Sections 2, 3, 5(1) (b) (3) (a), 30 and 31 of the same laws. 5

The appellant comes from Lebanon, is twenty-one years of age unemployed. He arrived in Cyprus through the Larnaca port on board the passenger boat "Sunboat". He was given a visitors visa until the 10th September 1986, and stayed at the hotel "Constandia". On the 8th September on the strength of a judicial warrant the Antinarcotic Squad of the Larnaca Police, searched in his presence his room and found in the drawer of the side-table a small bottle containing white powder which he admitted to have been cocaine for his personal use. Indeed, upon its examination by the Government analyst it was found to weigh 39.5 grams and to contain 26% of cocaine. The appellant gave a voluntary statement as to the circumstances he came to possess that controlled drug and he revealed that on two occasions he supplied half and one grams of cocaine to the same person, namely Charalambos Georghiou Charalambous of Larnaca, for which he was paid twenty pounds for each dose. This is indicative of the street value of the total quantity possessed by the appellant. 10
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All mitigating factors were placed before the Assize Court by the appellant's learned counsel who attributed the commission of the offence to the tragic experience of the appellant who as from a very young age on account of the conditions prevailing in his country was forced to live the savagery of the war in Lebanon and see his family ruined. 30

It was stressed, that in consequence, he was compelled to interrupt his studies and remain unemployed, so becoming an easy prey to temptation. 35

The seriousness of offences of this nature in which most regrettably a good number of Lebanese people visiting Cyprus are frequently involved, has been stressed by the

Courts of Cyprus time and again. In the case of *El-Etri and Others v. The Republic* (1985) 2 C.L.R. 40 we had the occasion to point out that deterrent sentences are essential for more reasons than one, more so for offences where there are the elements of trafficking and trading, that is trading in destruction and ultimate death. We noted also that Cyprus has been in recent years used as a transit place by foreign nationals for drug trafficking and that the Courts here have a duty to make our country an uninviting place for such visitors. In this particular case, there is one additional aggravating factor, namely that this hard narcotic was pushed on to the Cyprus market and this is a most worrying situation. We feel sorry for the calamity that has fallen on this nice neighbouring country through the savagery of war with all its consequences on its inhabitants but that should not sway the Courts of Cyprus from doing their duty for the protection of our people and in a wider context the peoples of other countries who are likely to pay the price of this illicit trafficking in narcotics which are a social menace against which a campaign with international cooperation is and should constantly be maintained.

For all the above reasons we find no merit in this appeal which is hereby dismissed.

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Appeal dismissed.