

1986 April 8

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

ANDREAS SOTERIOU LEMONAS.

*Appellant,*

v.

THE REPUBLIC.

*Respondent.*

*(Criminal Appeal No. 4636).*

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*Sentence—Homicide contrary to s. 205 of the Criminal Code, Cap. 154 as amended by s. 5 of Law 3/62—Life imprisonment—A proper sentence in the circumstances.*

5 The appellant, aged 19, was found guilty on his own plea of a charge of homicide and was sentenced to life imprisonment.

10 The appellant's criminal record was as follows: (a) Imprisonment of nine and seven months for shop-breaking and forgery. (b) Imprisonment for seven months for house-breaking and stealing. and (c) Imprisonment for two years for house-breaking and attempted rape.

15 The Assize Court found that the appellant "does not suffer from any mental disturbance but his personality is tainted with immaturity and reduced adaptation to social acts. but otherwise his mental faculties are good."

20 The victim was a married lady of 34. On the night of 20.11.84 the appellant gained somehow access into her flat and under the threat of a knife he forced her to accompany him to another flat where he attempted to rape her. During the struggle that ensued he stabbed her with his knife in the throat. The victim fell on the floor. She managed to get up holding her throat and shouting with a weak voice "killer". The appellant grabbed her again, threw her on the floor, kneeled on her stomach and

stabbed her five or six times in the neck. When the appellant realised that she was still alive, he finished her off by cutting her throat and, then, he dragged her to the bathroom, where the bath was full of water, and pulled her head in the water. making sure that she was dead. 5

*Held*, dismissing the appeal (1) While the maximum sentence is not ordinarily imposed unless all hope for the offender is lost, it may be imposed, if the facts surrounding the commission of the offence are abhorrent to the extent making the imposition of the maximum the only appropriate one. In particular in serious cases of homicide the maximum sentence of life imprisonment may be imposed if warranted by the gravity of the conduct of the offender. 10

(2) The sentence in this case was the proper one in the circumstances. It was an abhorrent crime against a helpless woman for the sole purpose of satisfying ones lust and sexual desire. Our society does not tolerate this kind of conduct and the Courts should indorse the distaste with which people view it. 15 20

*Appeal dismissed.*

**Cases referred to:**

*Koliandris v. The Republic* (1965) 2 C.L.R. 72;

*Mouzouris v. The Republic* (1966) 2 C.L.R. 9;

*Philippou v. The Republic* (1983) 2 C.L.R. 245. 25

**Appeal against sentence.**

Appeal against sentence by Andreas Soteriou Lemonas who was convicted on the 15th May, 1985 at the Assize Court of Paphos (Criminal Case No. 7853/84) on one count of the offence of homicide contrary to section 205 of the Criminal Code, Cap. 154 (as amended by section 5 of Law No. 3 of 1962) and was sentenced by Chrysostomis, P., Anastassiou, S.D.J. and Papas, D.J. to life imprisonment. 30

*P. Angelides*, for the appellant. 35

A. Frangos, Senior Counsel of the Republic. for the respondent.

5 A. LOIZOU J. gave the following judgment of the Court. The appellant was sentenced by the Assize Court of Paphos to imprisonment for life, having been found guilty, on his own plea, to a charge of homicide contrary to Section 205 of the Criminal Code, Cap. 154 as amended by Section 5 of Law No. 3 of 1962 for which offence the maximum sentence prescribed by Law is imprisonment for life. He  
10 appealed against this sentence on the ground that same is manifestly excessive.

The relevant facts were duly related to the Court which had also the advantage of a social investigation report as well as his previous convictions which consisted of terms  
15 of imprisonment of nine months and seven months for shop-breaking and forgery, house-breaking and stealing for seven months and house-breaking and attempted rape to two years, all committed between the end of 1982 and the middle of 1983.

20 The victim of this brutal crime was a married lady of thirty-four who came to Cyprus with her husband in 1983, liked the place and came again, this time alone, in 1984. She was staying at a flat and she was friendly with people. On the night of the 20th November, 1984, the appellant  
25 gained somehow access into her flat and under the threat of a knife forced her to accompany him to the flat where the offence was committed.

There the appellant forced her to consent to have sexual relations with him. At the initial stages the victim reacted  
30 by biting him on the lips and hitting him on the hand when the knife fell from it. There followed a struggle and the appellant managed to grab the knife and while the victim was proceeding towards the exit he caught her in the hall pulled her backwards and as he was holding her from the  
35 neck he stabbed her with his knife in the throat. He let her fall on the floor. The victim tried to get up once or twice and finally she managed to do so holding her throat shouting with a weak voice to the appellant "killer". He grabbed her again threw her on the floor and he kneeled

on her stomach and stabbed her five or six times on the neck.

He then let her in that position for a while. He saw that she was still alive and that she was trying to put her hands in front of her to defend herself and he finished her off by cutting her throat. Then he dragged her to the bathroom where the bath was full of water. He pulled her head in the water so that she would die and when he made sure that she was dead he pushed her body into the bath.

After that, he tried to cover up his movements. He switched on the electric heater of the bath-room and left. The body was discovered two days later accidentally when two people went to deliver a gas cylinder.

The appellant is nineteen years of age, the tenth child of a large family. Counsel for the appellant referred to his youth and the difficult years he went through and to his psychopathic personality. On that point clarifications were invited by the Assize Court and the Court concluded that "he does not suffer from any mental disturbance but his personality is tainted with immaturity and reduced adaptation to social acts, but otherwise his mental faculties are good."

The Assize Court taking into consideration the brutality of the offence and that the only purpose of it was the satisfaction of his sexual desires and that the crime was committed in three successive stages, described this case as one of the worst cases of homicide that they came across. Having all these in mind they came to the conclusion that the appellant has no possibility of reform and that the proper sentence should reflect not only the seriousness of this abhorrent crime but also protect the public from a highly dangerous criminal like the appellant and imposed the sentence against which the appeal was filed.

We have no difficulty whatsoever in dismissing this appeal as the sentence imposed was the proper one in the circumstances. It was an abhorrent crime against a helpless woman for the sole purpose of satisfying one's lust and sexual desires. Our society does not tolerate this kind of

conduct and the Courts should indorse the distaste with which people view it.

5 While the Court will not ordinarily impose the maximum sentence unless all hope for the offender is lost, it may do so if the facts surrounding the commission of the offence are abhorrent to the extent of making the imposition of the maximum sentence, the only appropriate one. In particular in serious cases of homicide the maximum sentence of life imprisonment may be imposed if warranted by the gravity of the conduct of the offender. The decision of the Supreme Court in *Koliandris v. The Republic* (1965) 2 C.L.R. 72 and *Mouzouris v. The Republic* (1966) 2 C.L.R. 9 make the above absolutely clear.

15 Given the exceptional gravity of the conduct of the appellant it was reasonably open to the Assize Court to impose the maximum sentence. This being the case there is no room for us to interfere. The principles upon which we may interfere on appeal were inter alia analysed in *Philippou v. The Republic* (1983) 2 C.L.R. 245, and we need not repeat them.

20 For all the above reasons the appeal is dismissed.

*Appeal dismissed.*