

1987 November 27

[TRIANAFYLIDES P LORIS KOURRIS JJ]

DIANA ELIE NEHME,

Appellant

v

THE POLICE

Respondents

(Criminal Appeal No 4908)

Sentence — Possessing of forged travellers cheques, uttering a false document obtaining money by false pretences and attempting to obtain money by false pretences — 12 months imprisonment for the first offence 18 months for the second 12 months for the third and 12 months for the fourth all sentences to run concurrently — Appellant a married woman of 30 deserted by her husband with three minor children, one of whom suffering with his heart — Appellant is a Lebanese living in Lebanon — Trial Judge thought that the second of the aforesaid offences is punishable with life imprisonment whereas in reality it is punishable with imprisonment of 3 years (The charge was brought under s 335 of the Criminal Code Cap 154) — In the circumstances sentence of 18 months imprisonment manifestly excessive — Reduced to 12 months imprisonment

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The facts of this case sufficiently appear in the judgment of the Court

Appeal allowed

Appeal against sentence.

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Appeal against sentence by Diana Elie Nehme who was convicted on the 5th September, 1987 at the District Court of Lamaca (Criminal Case No 8158/87) on one count of the offence of possessing a forged travellers cheque contrary to section 345 of the Criminal Code, Cap 154, on one count of the offence of uttering a false document contrary to sections 331, 333, 335 and 339 of Cap 154, on one count of obtaining money by false pretences contrary to sections 297 and 298 of Cap 154 and on one count of the offence of attempting to obtain money by false pretences contrary to sections 297, 298 and 367 of Cap 154 and was sentenced by Eliades, D J to twelve months' imprisonment

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on the first, third and fourth counts and to eighteen months' imprisonment on the second count the sentences to run concurrently

C *Emilianides*, for the appellant

- 5 A M *Angelides*, Senior Counsel of the Republic, for the respondents

TRIANAFYLLIDES P The judgment of the Court will be delivered by Kourris, J

10 KOURRIS J This is an appeal against the sentences of imprisonment imposed by a Judge of the District Court of Lamaca on 5 9 1987 on the appellant on her own plea of guilty The appellant pleaded guilty to the offences of

- (a) possession of forged travellers cheques,
 - (b) uttering a false document,
 - 15 (c) Obtaining money by false pretences, and
 - (d) Attempting to obtain money by false pretences,
- and was sentenced to 12 months' imprisonment, 18 months' imprisonment, 12 months' imprisonment and 12 months' imprisonment on each count respectively all sentences to run concurrently
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The appellant is a subject of Lebanon and on 6 8 1987 arrived in Lamaca Cyprus On the same day she went to a branch of Barclay's Bank and presented three traveller's cheques the Bank of America for one hundred dollars each and the clerk of the bank paid to her the sum of £C147 She then went to a branch of the Bank of Cyprus and presented three traveller's cheques issued on the bank of America for one hundred dollars each The clerk, however, realized that the traveller's cheques were forged and informed the police who arrived at the bank and interrogated the appellant The appellant confessed that she had another 14 traveller's cheques issued on the Bank of America for one hundred dollars each which she kept in her hotel room She led the police to her room and handed to them the traveller's cheques The police also seized the sum of £147 which the appellant had obtained by cashing the three forged traveller's cheques The appellant was arrested on the same day and was kept in custody until her trial before the District Court of Lamaca

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The appellant is 30 years old, married with three minor children from 3 - 10 years of age respectively, and she is living in Lebanon

Her husband deserted her and went to Kuwait. She said that one of her children is suffering with his heart and is in need of treatment.

The trial Judge in passing sentence on the appellant, said that he had taken into consideration the seriousness of the offences and particularly the offence of count 2 which is punishable by a maximum sentence of life imprisonment. It should be noted that the appellant on count 2 was charged under s. 335 of the Criminal Code Cap. 154 and the maximum punishment provided for is imprisonment for 3 years.

We formed the view that the trial Judge in passing sentence on the appellant of 18 months' imprisonment, was under the impression that the maximum sentence provided for was imprisonment for life and obviously he was wrong in law.

In these circumstances, we think that the sentence of 18 months' imprisonment is manifestly excessive and we reduce it to 12 months' imprisonment.

We allow the appeal and we set the sentence aside as manifestly excessive and we reduce the sentence to 12 months' imprisonment from the date of conviction, to run concurrently with the terms of imprisonment imposed on the appellant in respect of the other counts.

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

Appeal allowed.
Sentence of 18 months reduced to 12 months.