

ROYAL COURT
(Samedi Division)

22nd August, 1994.

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Before: The Bailiff, and
Jurats Coutanche and Potter

POLICE COURT APPEAL
(The Magistrate).

Andrew John Hougardy

- v -

The Attorney General

Appeal against a sentence of 4 months' imprisonment, passed on 4th July, 1994,
following guilty plea to:

1 charge of grave and criminal assault.

Appeal dismissed.

Advocate R.G. Morris for the Appellant.
Advocate A.D. Robinson on behalf of the Attorney General.

JUDGMENT

THE BAILIFF: This appeal arises from a sentence of four months' imprisonment imposed the Magistrate on 4th July upon the appellant. He was convicted of committing a grave and criminal assault on the woman with whom he had been living. The couple had a child by that union but they are now separated although they are, if I may so put it, on talking terms in relation to the welfare of the child.

Mr. Morris basis his appeal on two grounds. First, that the sentence was either wrong in principle or if not, that it was manifestly excessive; the second ground was not really a ground of appeal but an application to this Court to exercise mercy, because of the effect of a sentence of four months on the boy.

So far as the first ground is concerned, it is clear to the Court that the Magistrate took exceptional care over this case, which was not an easy one to try; the Court is satisfied, having read his judgment from pages 27 to 30 of the transcript, that the Magistrate was apprised very carefully of all the relevant facts

and took everything into account, not only as regards the incident itself but as regards the appellant. It is clear to the Court that he was at great pains to do that and to balance the factors of the case and the personal circumstances very fairly. He also
5 decided that a case of this nature required a deterrent aspect and with that the Court fully agrees. We cannot find therefore that the Magistrate in any way misdirected himself in the way in which he approached the sentencing of the appellant, nor that he was
10 wrong in principle to sentence the accused to a term of imprisonment, nor that the amount was manifestly excessive.

It is abundantly clear to this Court that where a defenceless woman is hit by a much larger man in a sense of rage, possibly
15 drunken rage, that that kind of behaviour has to be visited, unless there are exceptional circumstances, which the Court does not find there are here - and neither did the Magistrate, with a term of imprisonment. It cannot be right that men should assault women in the way this appellant assaulted the victim.

Turning to the second point Mr. Morris has made, as regards
20 the exercise of mercy, the Court cannot find anything in the letter shown to us nor in the circumstances that would entitle us to exercise our discretion in the way asked for. There are adequate child care facilities in this Island; the boy may suffer
25 some slight trauma perhaps - we trust it will not be as deep as that but he may be upset for a day or two - but the fact is that this is not a ground, in our opinion, for interfering with the Magistrate's discretion which, in our opinion, was fully and properly exercised and the appeal is dismissed.

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No Authorities