

IN THE SUPREME COURT OF FIJI

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Appellate Jurisdiction
Criminal Appeal No. 9 of 1985

Between:

KRISHNA MURTI s/o
PERSAMI

Appellant

and

REGINAM

Respondent

Mr. A.H. Rasheed for Appellant
Miss N. Shameem for Respondent

JUDGMENT

On 10th January 1985 appellant was convicted before the Suva Magistrate's Court after trial on a charge of dangerous driving contrary to section 35 of the Traffic Act and was sentenced to a fine of \$50 or 50 days' imprisonment and was ordered to be disqualified from driving for a period of one year.

The appeal is against both conviction and sentence.

The ground of appeal with respect to conviction is that the learned Magistrate misdirected himself in holding that there was sufficient evidence to support the charge of dangerous driving and hence a miscarriage of justice has occurred.

The evidence for the prosecution was given by PC.407 Hari Prasad. According to him he was driving his private car down Waimanu Road towards the city on 6th March 1984 at 7.55 a.m. When he approached the hospital bus stop near the junction to Brown Street he saw appellant's bus picking up passengers. He drove past the bus and was in the

centre lane which was for traffic travelling to the city. The traffic in the centre lane was moving slowly and had come to a virtual stop at the junction where there was a stop sign and because the roads were busy. He said when he stopped at the stop sign in the centre lane at the junction of Waimanu Road/Brown Street appellant's bus overtook the queue of vehicles on the left lane which was for traffic going to Brown Street and then pulled to the right in an attempt to get on the lane going to the city. According to the witness an accident almost occurred from that driving manoeuvre. A sketch plan was produced by the witness and exhibited in Court depicting the path from which the bus overtook the other vehicles.

Appellant did not give evidence.

The trial Magistrate accepted the prosecution evidence and convicted appellant.

The main complaint which emerged from submissions of counsel for appellant is that the prosecution evidence was largely sketchy and unclear so much so it was unreasonable and unsafe to convict on such evidence.

I have carefully scrutinised the evidence adduced by the prosecution and the inferences that could reasonably be drawn.

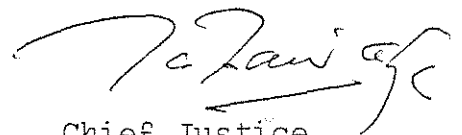
In my view it is quite clear from the evidence in this case that the appellant's bus overtook other vehicles which were stationary at the junction when it was dangerous to do so. He overtook from a lane which was supposed to be used by traffic going into Brown Street. He was clearly at fault and the fault in his manner of driving created a situation of danger for other road users.

Accordingly the appeal against conviction is dismissed.

The appeal against sentence was mainly in respect of the order of disqualification. Counsel for appellant submitted that the imposition of such an order was unduly harsh because appellant would thereby be deprived of his means of livelihood. It was pointed out this was his first traffic offence after seven years of driving.

There is clearly a high duty imposed by law upon bus drivers to drive with due care and attention and to avoid taking unnecessary risks. Bus drivers are not only responsible for the safety of their passengers but also for the safety for other road users as well. If driven dangerously buses become lethal weapons on the road because of their size, strength and weight.

A trial Court would therefore be clearly justified to ban bus drivers who create dangerous situations on the road as this appellant did. However, in view of his hitherto good driving record and the fact that his means of livelihood has since his conviction been severely affected, I am satisfied that the period imposed on him was too long. I think he will learn a lesson just as well with a shorter term of disqualification. Accordingly the appeal against sentence is allowed to the extent that the order of disqualification for a period of twelve months is set aside and one of six months substituted.


Chief Justice

Suva,
17th May, 1985.