

IN THE DISTRICT COURT OF NAURU

Criminal Jurisdiction

Criminal Case No. 143 of 1976

THE REPUBLIC

vs

DETAGOB DOGUAPE

CHARGE:

1. Driving a motorvehicle while under the influence of intoxicating liquor. Contrary to Section 21(1) of the Motor Traffic Act 1937-1973.

JUDGMENT:

The case for the prosecution is that the accused, on the 23rd February, 1976, drove a motor vehicle on the public highway whilst under the influence of intoxicating liquor.

The main witness for the prosecution, Miss Jenny Deijedage, has stated in her evidence that on the day in question she was driving to work at about 1:40 p.m. Somewhere between Minister Detudamo's and Laggui Harris' house, she noticed a car on the middle of the road coming in the opposite direction towards her. It was zigzagging. She took her car to the left to avoid a collision. When the car passed her there was hardly any space between the two cars and it missed her car by almost an inch. She noticed that the driver, who was the accused, was talking to a passenger seated on his side. If she did not take the car to the extreme left the accused would have collided with her. At the time of the incident the accused's car was pulling a boat.

The prosecution has led the evidence of two police officers who went to the house of the accused after the matter was reported by Miss Deiyedage. Constable Adrian Notte stated that when they went to the house of the accused they saw him lying in the lounge-room singing. As the accused got down the front steps, he observed that he was walking in a swaying manner. When he got into the car he noticed that his eyes were bloodshot and he got a strong smell of intoxicating liquor. The speech of the accused was slurred. Sgt. Notte asked the accused where he had been drinking and the accused said that he drank at the Gabab Channel and had started drinking at home when the police arrived.

This evidence is corroborated by Sgt. Alex Deiye.

The accused was taken to the Nauru General Hospital and was examined by Dr. Bill, whose report was tendered as Exhibit A. According to Dr. Bill, the accused would have stopped drinking about two hours before examination. The time of examination was 2:30 p.m.

The accused has given evidence and he has taken up the position that he drank after he went home. According to him he was feeling very cold because there was rain that day and he drank seven glasses of whisky one after the other in a very short time. After cleaning his boat, he went inside and drank two more glasses of whisky. He then lay down and started singing.

The accused, in his evidence, has made an attempt to satisfy the Court that at the time of the incident, as testified to by Miss Deiyedage, he was not after liquor. It is significant to note that the two police officers one of whom went inside the house did not see any signs of the accused drinking at all.

Dr. Bill has quite categorically stated that the accused would have stopped drinking about two hours earlier. According to Miss Deiyedage, the accused nearly collided with her car at about 1:40 p.m. The accused was examined at 2:30 p.m., which is just 50 minutes after the incident. Therefore, according to Dr. Bill, it is quite clear that the accused had consumed liquor at the time he nearly collided with Miss Deiyedage's car.

The medical report (Exhibit A) clearly shows that at the time of examination the accused was moderately under the influence of intoxicating liquor. Therefore, I have no hesitation in coming to the conclusion that at 1:40 p.m. when the accused nearly collided with Miss Deiyedage's car he was under the influence of intoxicating liquor.

I accept Miss Deiyedage's evidence which the accused has not sought to discredit and the evidence of the two police officers who have corroborated each other on all material particulars.

I, therefore, hold that the prosecution has proved its case beyond all reasonable doubt and I find the accused guilty of the charge and convict him.

10th March, 1976

R. L. DE SILVA
Resident Magistrate