

IN THE DISTRICT COURT OF NAURU

Criminal Jurisdiction

Criminal Case No. 561 of 1975

THE REPUBLIC

v

RENZO PAUL

CHARGE:

1. Driving a motor vehicle at a speed exceeding thirty miles per hour, Contrary to Section 28(a) of the Motor Traffic Act 1937-1973.

JUDGMENT:

The case for the prosecution is that on the 4th of November, 1975 the accused drove a Mitsubishi bus on the public highway at a speed exceeding 30 miles per hour.

The prosecution has led the evidence of Mr. D.J.A. Dowdall, who was Acting Director of Police, on the day in question. His evidence is that when he was traveling along the airstrip from Meneng towards the Administrative Offices, a minibus overtook him at a speed which he considered excessive. After it passed two other cars, it appeared to him to be increasing its speed and he then decided to give chase. The speedometer showed 90 kilometres per hour but he was still unable to catch up with the minibus. The speed of the minibus continued to increase and just as it passed the Works Department, he succeeded in passing it and at that stage the speedometer read 100 kilometres per hour. He stopped the vehicle and informed the accused of the speed he was traveling but the accused claimed that he was driving at 30 miles per hour.

The accused has given evidence and stated that he was traveling at 30 miles per hour.

On an examination of Mr. Dowdall's evidence, I find that apart from the speedometer reading, he considered the speed of the minibus when it overtook him at first to be excessive. This observation taken, together with the speedometer reading, is sufficient, in my opinion, to come to the conclusion that the accused was traveling in excess of 30 miles per hour.

In this regard, I am fortified in the decision taken in two cases often cited in this Court. The first is a Fijian case, namely, Shiu Prasad v. Attorney General (1966) for F.L.R. 200; and the English case of Penny v. Nicholas (1950) 2 All E.R. 89. In these two cases it has been told that the evidence of a speedometer reading without proof of its accuracy may be acceptable by a Court as prima facie evidence of the speed shown on it. It is admissible evidence

and it is left to the Court to decide what weight, if any, should be given to it. In this case, the margin by which the speed of the accused has exceeded the limit is so great that the Court can safely accept the speedometer reading as prima facie evidence that the speed was exceeded. I, therefore, accept Mr. Dowdall's evidence and I reject the evidence of the accused as being unworthy of credit.

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

17th March, 1976

R. L. DE SILVA
Resident Magistrate