

IN THE DISTRICT COURT OF NAURU

Criminal Jurisdiction

Criminal Case No. 170 of 1978

THE REPUBLIC

v.

ROBIN HOOD RIENONG DOGIREIY

CHARGE:

1. Reckless Driving: C/S 19(1) of the Motor Traffic Act 1937-1973.
2. Dangerous Driving: C/S 19(1) of the Motor Traffic Act 1937-1973.
3. Racing: C/S 16(3)(i) of the Motor Traffic Act 1937-1973.
4. Speeding: C/S 28(b) of the Motor Traffic Act 1937-1973.

JUDGMENT:

The case for the prosecution is that on the 8th March, 1978 at about 8.00 a.m. the accused drove on the public highway in Ijuw District recklessly, dangerously and in the process raced with another motor vehicle at a speed in excess of 30 m.p.h.

The prosecution evidence is that the accused went off the road whilst racing with a motor cyclist and crashed into the house of Mr. Adar. Mr. Adar has, in his evidence, stated that he was in his house at the relevant time when he heard the screech of tyres and there was a crash. It was all very sudden and the next moment a car was inside his house, it crashed into his bedroom, knocked down his icebox and other furniture. The car was red in colour and he saw the accused get out from the front of the car. There were no passengers.

The prosecution has also led the evidence of the motorcyclist Caddy Degia who is alleged to have raced with

the accused. According to this witness he met the accused in Anabar District and he overtook him on his motorcycle. At the Anibare Channel he made a U-turn and travelled at about 50 m.p.h. He is unable to say whether the accused followed him or not. The evidence of this witness does not fall in line with the evidence of two eye-witnesses who saw a car and a motorcyclist racing that morning. These witnesses are Angela and her brother Victor. According to Angela, she saw a motorcycle and behind it a red car travelling fast. She lost sight of them when they went past the house. They were going towards Anibare. Later she saw them again travelling faster than before. She recognised the driver of the car as the accused. The car skidded and crashed into Mr. Adar's house. The motorcyclist kept on going. She went to investigate and saw the accused alighting from that car. Witness Victor, too, saw the motorcyclist. He was at the bus stand waiting for a bus to go to school and he recognised the motorcyclist as witness Caddy. He also noticed a red car driven by the accused and both vehicles were travelling fast. The accused crashed into Mr. Adar's house and when he went to the scene, he saw the accused getting down from the car. The motorcyclist continued on its way.

The accused has given evidence and he has stated that he was not speeding and that he had had a tyre puncture which was the cause of the accident. He has also stated that he was travelling at 30 kilometers per hour and he skidded because he tried to avoid some children.

I have examined very carefully the defence put forward by the accused. It is by no means impossible, and, indeed, it must on occasions happen that a situation of danger arises when a tyre gets punctured and the driver finds it difficult to control the vehicle. This would be sudden emergency through no fault of his own. It could be that in an endeavour to avert a collision or running down some pedestrians the driver crashes into a house. But do the facts in this case reveal such a situation. It does not. All the evidence reveals that before the crash the motorcyclist and the car

driven by the accused were seen travelling at a fast speed on the public highway. Exhibit "P-1" shows a distinct skid mark which leads up to the house. These skid marks appear to be at least 200 feet in length. This reveals in no small measure the speed of the vehicle. If the front tyre got punctured and if the accused was driving at 30 kilometers per hour, he could have easily brought his vehicle to a halt on the correct side of the road. The evidence points to one fact, and one fact alone, namely that the accused did not exercise the degree of care and attention which a reasonably prudent driver would exercise in driving on the public highway. On the contrary the evidence reveals that he had scant regard for other road users whether they be pedestrians or motorists and he drove his car at a fast speed with gay abandon unmindful of the consequences and ended up crashing into Mr. Adar's house. I, therefore, reject the evidence of the accused as being unworthy of credit.

As regards dangerous driving I am mindful of the fact that this offence was committed somewhere between 7.30 and 8.00 a.m. in the morning when people are proceeding to their places of work and school children are walking on the pavement and waiting for buses as in fact witness Victor was doing. Therefore, the manner of driving of the accused apart from being reckless was done in a manner dangerous to other road users. I, therefore, hold that the prosecution has proved beyond all reasonable doubt that the accused on the day in question drove his motor vehicle recklessly and in a manner dangerous to other road users; raced on the public highway with another motorcyclist and in doing so travelled at a speed in excess of 30 m.p.h. I find the accused guilty on all four counts and I convict him.

R. L. DE SILVA
Resident Magistrate

31st March, 1978