

IN THE BISTRIC COURT OF NAURU  
Criminal Jurisdiction  
Criminal Case No. 193 of 1978

THE REPUBLIC

v.

JOE HIRAM

CHARGE: Driving under the influence of intoxicating liquor: C/S 21(1) of the Motor Traffic Act 1937-1973.

JUDGMENT:

The case for the prosecution is that the accused was detected on the 26th March, 1978 at about 10.30 p.m., driving his motor-vehicle in a zig-zag manner on the public highway.

According to Constables Desmond and Sesiah, who detected the accused whilst on Police Patrol, they first noticed the vehicle driven by the accused near the hole-in-the-wall being driven in a zig-zag manner. They trailed the vehicle and at one stage went alongside the accused's vehicle and requested the accused to stop. But the accused picked up speed on the hill at Anibare and the car was eventually stopped near the Speaker's residence.

According to Const. Morgan he noticed that the accused had been drinking and realised that he was drunk as he was speaking meaningless words. Const. Haulangi has stated that the accused smelt of intoxicating liquor. Const. Deduna, the Desk Sergeant, has stated that the accused was slightly under the influence and in the same breadth stated that the accused was drunk. He has also stated that the accused was tongue-tied and staggered a little bit.

I will first examine the evidence as regards the state of intoxication of the accused. The Court is entitled

to, in the absence of a Medical Report, take into consideration the evidence of competent and experienced Police Officers on the degree of intoxication of an accused. I must stress at this stage that apart from being competent and experienced, none of the three Police Officers appeared even to understand the questions put in cross-examination. Const. Deduna's evidence is clearly indicative of the fact that he hasn't the faintest idea of what is meant by being under the influence. According to him being under the influence and being drunk are one and the same. According to Const. Haulangi the accused smelt of drink and he was tongue-tied. Smelling of drink or being tongue-tied certainly does not mean that the accused was under the influence of intoxicating liquor. Const. Desmond, however, has done better. He has stated that the accused was drunk, as he was speaking meaningless words. I am unable to comprehend what he meant by meaningless words. His evidence in Court showed his inability to comprehend simple questions and it may well be that he did not really understand whatever was spoken by the accused. Both Consts. Morgan and Haulangi appeared to me witnesses who hardly knew what they were stating and I am extremely reluctant to accept their evidence. Neither was I impressed by the evidence of Const. Deduna as to the state of intoxication of the accused.

As regards the accused's vehicle zig-zagging on the road, both Police Officers who detected the accused have given a different version. These are Police Officers on patrol duty and supposed to be ever vigilant to detect any offences. According to Const. Morgan the accused was zig-zagging from his lane of traffic on to the opposite side and back again. This would mean that the accused was going from the extreme left of the road to the extreme right. Now, if this was the case, it is very unlikely that Const. Haulangi would have missed seeing the vehicle travelling in this fashion, unless of course he was asleep. His evidence is that the accused was zig-zagging but kept to

his lane of traffic. The evidence is of such a tenuous nature that I am unable to accept it. Apart from the fact that these two witnesses appeared to be utterly confused and could not even comprehend questions put to them by the accused in cross-examination, I formed the opinion that in their confusion they were "zig-zagging their way through their evidence.

I am extremely reluctant to act on such inadequate and utterly worthless evidence, and I hold that the prosecution has failed to prove beyond all reasonable doubt that the accused on the night in question drove his car in a zig-zag manner whilst being under the influence of intoxicating liquor.

R. L. DE SILVA  
Resident Magistrate

12th April, 1978