

IN THE DISTRICT COURT OF NAURU  
Criminal Jurisdiction  
Criminal Case No. 194 of 1978

THE REPUBLIC

v.

POUWA KAPUA

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

JUDGMENT:

It is in evidence that on the 15th October, 1977 at about 10.30 a.m., there was an accident near the stop-sign at the Boe end of the air-strip involving two motorcycles. Lucas Depoudu has stated that he heard the sound of a crash and he saw two persons lying on the road. One was a Tuvaluan and the other was the accused. There were two motorcycles.

The other motorcyclist involved in the accident, witness Kala, has stated that at the relevant time he was going along the highway past the air-port towards the location. Near the stop-lights he stopped as he saw a motorcycle coming from the direction of the Civic Centre trying to negotiate a bend. He noticed the motorcyclist coming straight at him. He made an attempt to swerve his cycle to the right in order to avoid the oncoming motorcyclist but the motorcyclist crashed into his cycle and fell down. He fell down, too. He received an injury on his left leg and was in hospital for nearly a month.

Constable Dekarube, who went to the scene of the accident, has stated that he saw the accused and two motorcycles on the road. The accused appeared to have been drinking. He was unable to communicate with the accused. When he asked him a question he would answer something completely different. He took him to be examined by a doctor.

Dr. Bill has tendered his medical report as Ex. "X" and has stated that the accused had admitted to him that he had been drinking that morning. He also got the smell of alcohol. The accused, in his evidence, has stated that he spent the entire night before the accident drinking. He got up at 10.00 a.m. that morning and was on his way home when he met with this accident as a result of falling asleep. He has admitted that he was still having the effects of alcohol.

There is no doubt that an accident did occur on the day in question. I will now examine the evidence as to whether the accused was under the influence of intoxicating liquor at the time he met with this accident. Dr. Bill, in his medical report Ex. "X", stated that the effects of alcohol was moderate and ability to drive, impaired. This means that the accused was under the influence of intoxicating liquor. This is supported by the evidence of Const. Dekarube, whose evidence I accept, He has stated that the accused appeared to have been drinking and was unable to answer questions put to him and would give irrelevant answers. On this evidence I am, therefore, satisfied that at the time of the accident the accused, who had been drinking the whole night, was still under the influence of intoxicating liquor. In fact the accused has admitted that he was still having the effects of alcohol. I, therefore, hold that the prosecution has proved beyond all reasonable doubt that the accused met with this accident as a result of driving whilst under the influence of intoxicating liquor and I find him guilty and I convict him.

R. L. DE SILVA  
Resident Magistrate

13th April, 1978