

IN THE DISTRICT COURT OF NAURU
Criminal Jurisdiction
Criminal Case No. 216 of 1978

THE REPUBLIC

v.

GARABWAN JOSEPH

CHARGE:

1. Driving a motor vehicle in a manner dangerous to the public: C/S 19(1) of the Motor Traffic Act 1937-1973.
2. Speeding: C/S 28(a) of the Motor Traffic Act 1937-1973.

JUDGMENT:

The accused is charged for driving a motor vehicle in a manner dangerous to the public and for speeding.

I will first deal with the charge of speeding. The evidence of Mrs. Tannang does not refer to the accused having driven his vehicle at a speed exceeding 30 m.p.h. There is the evidence of Anthony Temaki, who has stated that on the day in question he was travelling southwards in his motor car and was travelling slowly. He has stated that he was unable to tell the speed of the vehicle that overtook him except that it was exceeding 30 m.p.h. There is also the evidence of TABuna, who has stated that the accused was travelling at 30 m.p.h. When the vehicle overtook him, he was travelling at about 25 m.p.h.

I have examined the evidence as regards speeding very carefully and I am of the opinion that it would be unsafe to act on the evidence of these witnesses as their evidence is unsatisfactory. It does appear that the witnesses were only hazarding a guess as to the speed of the vehicle which overtook them. When witness Tabuna stated that he was travelling at about 25 m.p.h. there is no indication that he looked

at his speedometer and the only inference that this Court can draw is that he merely thought he was travelling at 25 m.p.h. when the accused overtook him and that the accused was travelling over 30 m.p.h. Therefore, I would give the accused the benefit of the doubt and find him not guilty on Count 2 and acquit him.

As regards driving in a manner dangerous to the public there is the evidence of Mrs. Tannang that she had her blinkers on when she was about to turn towards the sea-side. Then something crashed onto her motorcycle. This evidence is corroborated by witness Temaki, who has stated that he saw the motorcycle with its blinkers on and that a car crashed onto the motorcycle as it was about to turn.

The accused, in his statement, stated that he did not see the motorcyclist because there was a vehicle in front of him and that the vehicle did not give a signal that it was slowing down.

On an examination of the entirety of the evidence, I am of the opinion that if the accused had exercised that degree of care and precaution which is expected of every motorist whilst overtaking, he could have avoided the accident. The evidence certainly reveals that the accused has been careless and driven his motor vehicle in a manner dangerous to other road users. I, therefore, find the accused guilty on Count 1 and convict him.

R. L. DE SILVA
Resident Magistrate

11th May, 1978