

IN THE SUPREME COURT OF NAURU

Criminal Jurisdiction

Criminal Appeal No. 4 of 1976

RENZO PAUL - Appellant

vs.

DIRECTOR OF PUBLIC PROSECUTIONS - Respondent.

20th May, 1976 at 10.40 A.M.

In Court

Before Mr. Justice I.R. Thompson, Chief Justice

For the Appellant: Mr. R. Kun

For the Respondent: Mr. L.D. Keke, Legal Officer

Appellant present.

KUN: This is an appeal against severity of sentence\* only. The appellant has had four convictions before but none for six years before this one. I urge this as a mitigating factor.

The appellant was working as a driver for the Meñen Hotel. His duties were to pick up staff of the Hotel from their houses and to take them home after work. He was on his way to pick up staff when he committed the offence. He was overtaking cars and had to go over the speed limit to do so. But he was on duty at the time. I urge that also as a mitigating factor. The staff lived at different places all round the island. He had to overtake a number of cars to get around quickly and get the staff to work on time.

He pleaded guilty but the speed was not very high.

Mr. Dowdall's car would have gone faster than the appellant's to catch up with the appellant. So there is no evidence that his speed was as high as 100 k.p.h.

Suspension was severe penalty as no conviction since 1970, unduly harsh.

The appellant has already paid the fine. This appeal is directed mainly at the suspension of his licence

I wish to call a character witness.

KEKE: 80 k.p.h. is not just a little over 30 m.p.h. It is about 50 m.p.h. The fact that the appellant was on duty and running later is no excuse. His intentions may have been good but he was endangering others.

The appellant has four previous convictions in 1965, 1967, 1968 and 1970. Was dealt with leniently then but District Court's sentence now is appropriate, not harsh or excessive. The manner in which vehicles are driven in Nauru is a cause of concern to the authorities. Speeding has been the cause of many accidents.

JUDGMENT:

The appellant pleaded guilty to speeding and the evidence adduced in the District Court indicate that his maximum speed was probably about 50 m.p.h. I do not regard the fact that he was on duty as in any way mitigating the seriousness of the offence. But, in view of the long period which had elapsed since the appellant's last previous conviction, nearly six years, I consider that he should have been sentenced on the same principles as if he had been a first offender. I am well aware of the serious results which may follow from driving at excessive speeds on the roads of Nauru, and also of the generally poor standards of driving by so many drivers which is properly causing the authorities concern. This Court would, therefore, not wish to do anything to undermine action taken by the authorities and sentence imposed by the District Court with a view to trying to remedy the situation (although I would suggest that much could be achieved by a more persistent or vigorous enforcement of the traffic laws so that drivers would know that if they commit offences there is an extreme likelihood that they would be brought to book, a state of affairs which does not exist at present), but nevertheless it appears unduly harsh to suspend a driver's licence for his first offence, unless the offence is itself very serious. That being so, I consider that in this case the appellant's licence should not have been suspended.

The appeal will be allowed in part. The sentence of the fine of \$100 is to stand but the order for suspension of the appellant's driving licence is set aside.

I. R. THOMPSON  
Chief Justice

20/5/76

\*(Sentence: \$100 for speeding and order of suspension of driving licence for 6 months.)