

IN THE SUPREME COURT OF NAURU
Criminal Jurisdiction
Criminal Appeal No. 13 of 1978

RIDDEN ADAM

Appellant

v.

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

18th May, 1978 at 9.30 a.m.

In Court

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

For the Appellant: Mr. G. Star

For the Respondent: Mr. D.G. Lang

Appellant present.

Interpreter: Mr. D.A. Harris, Clerk of Courts

Appeal against severity of sentence.

MR. STAR: The appellant was driving a motor vehicle at a reasonable speed. Opposite the fire station he tried to overtake another car. He accelerated for that purpose only.

COURT: Those are not the facts admitted in the District Court.

MR. STAR: They are the facts as he has told them to me. He is a young man. He is starting his career in the N.P.C. workshop. He started work recently; is enthusiastic about his work.

MR. LANG: The appellant was speeding for about $\frac{1}{2}$ mile, at 62 m.p.h. He has five p.c. but none since 1975. In those circumstances the Court may consider that it was not appropriate for a sentence of imprisonment to be imposed.

JUDGMENT:

The appellant was convicted of speeding and sentenced to three months' imprisonment. It is noteworthy that a charge of dangerous driving was not proceeded with. Where speeding constitutes dangerous driving, a sentence of imprisonment may be warranted; but in that event the offender should be charged with dangerous driving and the District Court should consider whether or not to convict him of that offence on the facts of the case. If it does not convict of that offence, imprisonment is not appropriate, except possibly in the case of a persistent offender, deliberately and persistently flouting the law.

As the charge of dangerous driving was not proceeded with in the present case a sentence of imprisonment should not have been imposed. Because the speed was high, however, a substantial fine was warranted.

The appeal is allowed; the sentence is set aside and a fine of \$75 is imposed in its place.

I.R. THOMPSON
Chief Justice

18/5/78