

IN THE SUPREME COURT OF NAURU

Criminal Jurisdiction

Criminal Appeal No. 14/of 1978

REINONG ROBIN HOOD DOGIREIY

Appellant

v.

DIRECTOR OF PUBLIC PROSECUTIONS

RRespondent

18th May, 1978 at 9.45 a.m.

In Court

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

For the Republic: Mr. D.G. Lang

For the Appellant: Mr. G. Star

Appellant present.

Interpreter: Mr. Alec Harris, Clerk of Courts

Appeal against severity of sentence, including suspension of driving licence.

MR. STAR: The appellant is young. He married recently. His wife is in hospital, having had a caesarian operation. There is none to look after the wife. The appellant asks for mercy. He realises the seriousness of the offence and asks for forgiveness.

COURT: The sentences imposed on Counts 3 and 4 appear to be in excess of the legal maximum.

MR. LANG: That is correct. Also there were four offences charged. The Court should have regarded Counts 1 and 2 as alternative - unless there were two separate incidents. The same applies in essence in respect of Counts 3 and 4.

COURT: Also Counts 3 and 4 constituted Counts 1 and 2 and should have been concurrent.

MR. LANG: I accept that. Apart from those points, a custodial sentence was fully warranted. It was an exceptionally bad case. He was racing. His car left the road and went straight through a house. He was very fortunate that no one was killed.

The suspension for 5 years may seem harsh, a considerable period is justified. His manner of driving demonstrated a total disregard for the safety of others.

MR. STAR: I have nothing more to say.

JUDGMENT:

This was a shocking case of reckless driving and a sentence of imprisonment was necessary. However, as all the offences were committed simultaneously and were merely different aspects of the appellant's driving, the sentences should have been ordered to run concurrently. The sentences imposed on the third and fourth counts were in excess of the legal maximum.

As Mr. Lang has pointed out, Counts 1 and 2 were, in effect, alternative to one another, although no doubt both was committed. Likewise in the case of Counts 3 and 4, However, as convictions were recorded, and could properly be recorded, in respect of all four offences, a sentence must be imposed in respect of each, and they must then be ordered to be served concurrently.

Accordingly the appeal in respect of Counts 1 and 2 is dismissed. The appeal in respect of Counts 3 and 4 is allowed; the sentences in respect of those counts are set aside and a sentence of 3 months' imprisonment with hard labour is imposed in respect of Count 3 and a sentence of one week's imprisonment with hard labour is imposed in

respect of Count 4. The sentences in respect of Counts 3 and 4 are to be served concurrently with one another and with the sentences imposed on Counts 1 and 2.

The period of disqualification is excessive. Clearly the appellant must be prevented from driving for a long enough period to bring him to a proper sense of the responsibility he owes as a driver to other road users and members of the public generally. The period of suspension of his licence is reduced to two years from the date of his release from prison.

I.R. THOMPSON
Chief Justice

18/5/78