

**REPUBLIC OF NAURU**  
**IN THE SUPREME COURT**

**CRIMINAL CASE NO. 3/2005**

**BETWEEN:** THE REPUBLIC  
**AND:** PAULUS DONGOBIR

Pres Nimes for Accused  
Robert Kaierua for D.P.P.

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**DECISION**

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Paulus Dongobir was charged with:-

1. Manslaughter, 2. Reckless driving and 3. Driving under the influence.

**Particulars of Offence**

1. In that he Paulus Dongobir did on or about the 4 day of August 2003, unlawfully kill one Sheedy Detabene.
2. In that he Paulus Dongobir on or about the 4 day of August 2003, did drive a motor vehicle upon the public highway negligently and recklessly and in a manner dangerous to the public.
3. In that he Paulus Dongobir on or about the 4 day of August 2003, did drive a motor vehicle whilst under the influence of intoxicating liquor.

It happen during the night. A group of men and at some stage some women were driving around the Island in an open land rover. Some of them had been drinking but there is no evidence at all that the accused had been drinking, that he was affected by alcohol.

The deceased had been driving the vehicle but driving erratically. He asked the accused to drive. The accused did so. The deceased was in the back. He was dancing about, toppled over, fell out, was run over. They went back to him; 5 metres or so behind. He was still alive but died two days later in hospital. Dr. Lu whose report was admitted through Dr. Waidabu:-

"He was drunk. Fell from car brought in RON hospital by ambulance at 4.00a.m. on 03/08/03.

He was drunk patient was comatose had laceration on the back of scalp (1/2 cm) and the R heel (5cm) he is severe contusion."

The only evidence of the accused driving was from Decca Demaure:-

"Not travelling at high speed; nothing unusual in his driving."

Mr. Kaierua had opened that the deceased had been dancing on the bonnet but Decca Demaure said he did not see the deceased dancing on the bonnet.

At the close of the prosecution Mr. Nimes submitted that his client had no case to answer.

There was no evidence at all to support the second and third counts.


As for the first, had the deceased been dancing on the bonnet, fallen over and the Land Rover run over him or had the Land Rover run into him as he stood on the road, perhaps there may have been sufficient evident to make a prima facie case of manslaughter but that is not how it was.

The deceased was behind the accused and fell off. The accused may not even have known what the deceased was doing. To succeed on the charge of manslaughter the prosecution must prove

beyond reasonable doubt that the accused was driving dangerously. There is no evidence that the accused was driving even recklessly let alone dangerously. The accused had no case to answer on count one either.

I gave my finding of No Case and now publish my reasons.

Dated the 8<sup>th</sup> day of July, 2006

  
THE SEAL OF THE SUPREME COURT  
THE HON. ROBIN MILLHOUSE Q.C.,  
CHIEF JUSTICE