

1948
Dec. 30
MELIOS
LOPHIDES
v.
THE POLICE.

[JACKSON, C.J., AND MELISSAS, J.]
(December 30, 1948)

MELIOS LOPHIDES, *Appellant,*
v.
THE POLICE, *Respondents.*
(*Criminal Appeal No. 1863.*)

Motor Car Laws, 1921 to 1936, section 5A—Disqualification from holding a driving licence—Powers of Appeal Court—Power to quash conviction.

The appellant was convicted of allowing another person to drive a motor cycle on a public street, knowing that such person was not the holder of a driving licence, and was fined £1 and, in addition, ordered, under section 5A of the Motor Car Laws, 1921 to 1936, to be disqualified from holding a driving licence for two years. The Appeal Court took the view that there was no evidence whatever before the trial Court to justify a conviction and directed that the order for disqualification be quashed. On the question whether the Appeal Court had power to deal with the conviction itself,

Held, that on an appeal against an order of the Court, under section 5A of the Motor Car Laws, 1921 to 1936, disqualifying a person from holding or obtaining a driving licence, the Appeal Court, in addition to the power of dealing with the order for disqualification, had power to quash the conviction if it took the view that the conviction was unjustified.

Conviction quashed.

Appeal from an order of the Magistrate of Nicosia (Case No. 14102/48), under section 5A of the Motor Car Laws, 1921 to 1936, disqualifying the appellant from holding or obtaining a driving licence.

C. Severis for the appellant.

P. N. Paschalis, Crown Counsel, for the respondents.

The judgment of the Court was delivered by :

JACKSON, C.J. : The only question is what we are empowered to do, taking the view that there was no evidence whatever to justify the Magistrate in convicting this person of the offence with which he was charged. It has been said that all we have power to do is to deal with the order which disqualified this defendant from holding a driving licence for two years. That we undoubtedly have power to do and we feel no hesitation whatever in directing that that order be quashed.

The question remains whether we have power to go any further and to deal with the conviction itself. But it seems to us that it is impossible for us not to look at the justification for the conviction in considering the appropriateness of the order for disqualification from holding a licence, and the decision that we have come to in regard to that particular order is based upon our view that there was no justification whatever for convicting this defendant. That being so, we cannot believe that we are obliged to leave standing against him a conviction which, in our view, is entirely unjustified, and we feel that we must have power to quash the conviction, which we accordingly do.

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Conviction quashed.
