

1967
April 14

REGINALD
CHARLES
EDWARD
STILES-ALTIERI
v.
THE POLICE

[VASSILIADES, P., JOSEPHIDES AND HADJIANASTASSIOU, JJ.]

REGINALD CHARLES EDWARD STILES-ALTIERI,
Appellant,
v.
THE POLICE,
Respondents.

(*Criminal Appeal No. 2898*).

Road Traffic—Sentence—Appeal against sentence as being excessive—Driving within a built-up area at a speed likely to endanger human life—Section 4 (1) (2) of the Motor Vehicles and Road Traffic Law, Cap. 332—Nothing on record showing circumstances at the material time as stated by Police—Measure of punishment—Not the proper judicial measure for sentence.

Sentence — Sentence in criminal cases—Judicial measure of punishment—See under “ Road Traffic ” above.

Appeal against sentence.

Appeal against the sentence imposed on the appellant who was convicted on the 17.3.67 at the District Court of Nicosia (Criminal Case No. 899/67) on one count of the offence of driving within the built-up area of a village at a speed of 48 miles per hour, contrary to section 4 (1) (2) of the Motor Vehicles and Road Traffic Law, Cap. 332, and was sentenced by Papa Ioannou, Ag. D.J., to pay a fine of £18.

Appellant, in person.

S. Georghiadis, Counsel of the Republic, for the respondents.

The facts sufficiently appear in the judgment of the Court delivered by :

VASSILIADES, P.: The appellant in this case, a radio engineer in the employment of the British Forces in Cyprus, took the present appeal on a notice, apparently prepared by himself personally, against a sentence of £18 fine, imposed upon him by the District Court of Nicosia, on a charge of driving within the built-up area of a village at a speed of 48 miles per hour, on the ground that the sentence is excessive.

The appellant, a man of 47 years of age, has been driving, according to his notice of appeal, for 29 years in different parts of the world and has “ never had an accident or any

other convictions". He was, apparently, caught speeding by means of the mechanical appliance used by the Police in checking traffic, as he was going through Trimitia village on the 2nd December, 1966.

When before the District Court on the 17th March, 1967, in answer to the summons, he pleaded guilty to the charge and was fined £18. There is nothing on the record to show what were the circumstances at the material time as stated by the Police ; or, what the accused had to say in mitigation. The record, moreover, does not show the reasons which led the Judge to his decision regarding the fine imposed. One is tempted to connect the £18 fine with the difference between the alleged speed of 48 m.p.h. and the usual speed limit of 30 m.p.h. If that is right, there can be no doubt that the measure of punishment employed in this case is not the proper judicial measure for a sentence in a criminal case.

Learned counsel for the Police rightly tried to impress upon the Court that over-speeding in a built-up area is likely to endanger human life and that the Police are well justified in checking fast drivers. At the same time counsel was not able to state the circumstances under which this particular offence was committed ; nor was he in a position to dispute the statement of the appellant in this connection. He, therefore, very rightly in our opinion, left the matter to Court without pressing in support of the sentence imposed which, on the face of it, appears to be rather excessive.

There can be no doubt that fast driving within a built-up area can be dangerous ; and that the Police and all other authorities and persons concerned should do all in their power to stop inconsiderate drivers from being a danger on the road. On the other hand, it is equally certain that the punishment in each case must be measured on the factors pertaining to sentence ; and nothing else. The circumstances in which the offence was committed as well as what is material for the purposes of sentence, as far as the accused is concerned, must be placed before the Court and must be taken into consideration by the Court in passing sentence.

In the present case there is nothing on the record to justify or explain the fine of £18. On the material before us, we must allow this appeal and impose the appropriate fine measured on the relevant facts as they are now before us. We are of opinion that the sentence must be reduced to one of £5.

Appeal allowed, sentence reduced accordingly.

Order in terms.

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