

COSTAS ZACHARIADES,

Appellant,

v.

COSTAS
ZACHARIADES
v.
THE POLICE

THE POLICE,

Respondents.

(*Criminal Appeal No. 3027*)

Criminal Law—Road Traffic—Sentence—Driving a motor-car at a dangerous speed contrary to section 4 (1) (2) of the Motor Vehicles and Road Traffic Law, Cap. 332—Sentence of £30 fine with a disqualification order for forty days—Appeal on the ground that sentence imposed is manifestly excessive—Sentence not interfered with by the Court of Appeal—Disqualification for an appropriate period should be more frequently used as part of the punishment for such offences, in view of its deterrent effect.

Sentence—Appeal against sentence—See above.

Appeal—Sentence—See above.

Road Traffic—Dangerous driving—Sentence—Disqualification order for an appropriate period should be more frequently used for such offences, in view of its deterrent effect—See, also, above under Criminal Law.

Dangerous driving—Sentence—Disqualification—See above.

Disqualification—Disqualification from driving a motor-vehicle—Should be more frequently used in view of its deterrent effect—See above under Criminal Law; Road Traffic.

This is an appeal against the sentence imposed on the appellant by the trial Judge for driving a motor-vehicle at a dangerous speed contrary to section 4 (1) (2) of the Motor Vehicles and Road Traffic Law, Cap. 332, on the ground that such sentence is excessive. The appellant, a mechanic of 36 years, was driving his car at a speed of 65 miles per hour in an inhabited area within which the speed limit is 30 miles per hour. The trial Judge passed a sentence of £30 fine with a disqualification order for 40 days. Appellant's main grievance is that the disqualification order in his case is a very severe punishment as the use of his driving licence is necessary for the carrying out of his profession.

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In affirming the sentence and in dismissing the appeal, the Court :

Held, (1) The sentence imposed cannot be considered as manifestly excessive ; and it should not, therefore, be interfered with.

(2) We are inclined to agree with the view that disqualification for an appropriate period in the circumstances of the case, should be more frequently used as part of the punishment for such offences, in view of its undoubted deterrent effect.

Appeal dismissed, sentence affirmed.

Appeal against sentence.

Appeal against sentence by Costas Zachariades who was convicted on the 16th August, 1968 at the District Court of Nicosia (Criminal Case No. 14726/68) on one count of the offence of driving a motor-car at a dangerous speed contrary to section 4 (1) (2) of the Motor Vehicles and Road Traffic Law Cap. 332 and was sentenced by Stylianiades, D.J., to pay a fine of £30 and he was further disqualified from driving a motor vehicle for a period of 40 days.

A. *Triantafyllides* with *Chr. Chrysanthou*, for the appellant.

M. *Kyprianou*, Counsel of the Republic, for the respondents.

The judgment of the Court was delivered by :—

VASSILIADES, P. : This is an appeal against sentence on the ground that the sentence imposed by the trial Court is manifestly excessive in the circumstances of the case.

The appellant, a mechanic of 36 years of age, was charged in the District Court of Nicosia for driving a motor-car at a dangerous speed contrary to section 4 (1) (2) of the Motor-Vehicles and Road Traffic Law (Cap. 332). Counsel on his behalf entered a plea of guilty to the charge upon which the appellant now stands convicted.

The facts of the case, as presented to the trial Judge, were that the policeman checking the traffic at Grivas Digenis Avenue at 10.00 p.m. in the evening of May 3, 1968, found with the assistance of radar equipment that the appellant was driving his car at a speed of 65 miles per hour in an area within which the speed limit is 30 miles per hour.

The mitigating circumstances pleaded on behalf of the appellant, were that the traffic on the avenue in question, at the time of the offence, was such that driving at 65 miles per hour could not really be described as dangerous driving, and that finding was due to sub-section (2) of section 4 of Cap. 332. There was no traffic congestion at that hour of the night on the well-illuminated and broad avenue in question. Moreover, counsel pleaded that his client whose profession makes it necessary for him to drive powerful cars very frequently on the road, had only one previous conviction more than 15 years ago, for which he was fined £3 for overspeeding.

The trial Judge in passing sentence took into consideration that the speed at which the appellant was driving at the time of the offence, was more than double the speed limit in the area in question ; and that the appellant must have been well aware that he was exceeding that limit. In the circumstances the learned Judge took the view, as it appears from his notes, that a fine would not be an adequate punishment ; and passed on the appellant a sentence of £30 fine with a disqualification order for 40 days.

Having heard learned counsel for the appellant in support of his submission that, in the circumstances, the sentence is manifestly excessive and having also heard counsel for the respondents in support of the sentence, we are unanimously of the opinion that the sentence imposed cannot be considered as manifestly excessive ; and it should not be interfered with.

Appellant's main grievance is that the disqualification order in his case is a very severe punishment as the use of his driving licence is necessary for the carrying out of his profession. On the other hand we cannot overlook the fact that a disqualification order is, in most cases, a more effective punishment than a fine ; and that this was apparently what the Judge had in mind in making use of disqualification for checking offences of this nature, which, in his view, according to his notes, constitute a public danger. We are inclined to agree with the view that disqualification for an appropriate period in the circumstances of the case, should be more frequently used as part of the punishment for such offences, in view of its undoubted deterrent effect.

Having considered the matter as a whole, we have reached the conclusion, as already stated, that we should not interfere with the sentence ; and that his appeal must be dismissed.

Appeal dismissed, sentence affirmed.

Order in terms.