

1971
June 1

[TRIANAFYLLIDES, P., HADJIANASTASSIOU, A. LOIZOU, JJ.]

KYPROS
CHRYSOSTOMOU
v.
THE POLICE

KYPROS CHRYSOSTOMOU,

Appellant,

v.

THE POLICE,

Respondents.

(Criminal Appeal No. 3250).

Road Traffic—Driving without due care and attention—Section 6 of the Motor Vehicles and Road Traffic Law Cap. 332—Appellant in process of overtaking stationary bus, hitting girl emerging from behind the front of the bus—Situation held to be not such as that described by trial Judge in stating his reasons for finding Appellant guilty on the charge—Conviction quashed—Appeal allowed.

Human rights—Charge—Article 12.5(a) of the Constitution—Right of every person charged with an offence to be informed “in detail of the nature and grounds of the charge preferred against him”.

Criminal charges—Should contain all essential details—Article 12.5 (a)—See supra.

Per curiam: We would like to draw attention to the right, under Article 12.5 (a) of the Constitution, of every person charged with an offence to be informed “in detail of the nature and grounds of the charge preferred against him”, and to observe that, though in the present instance for the same reasons as those given in the case of *Kannas v. The Police* (1968) 2 C.L.R. 29, (viz. that, in the circumstances, the Appellant had in fact knowledge of the essential elements of the offence with which he was charged, even if they were not included in the particulars of the count on which he was convicted) we would not have held that the conviction ought to be set aside due to a contravention of the provisions of Article 12.5 (a), care should always be taken to state in criminal charges all details.

Cases referred to:

Kannas v. The Police (1968) 2 C.L.R. 29.

The facts sufficiently appear in the judgment whereby the Supreme Court allowing this appeal quashed the conviction of the Appellant on a charge of driving a motor vehicle without due care and attention contrary to section 6 of the Motor Vehicles and Road Traffic Law, Cap. 332.

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KYPROS
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Appeal against conviction.

Appeal against conviction by Kypros Chrysostomou who was convicted on the 12th April, 1971 at the District Court of Nicosia (Criminal Case No. 454/71) on one count of the offence of driving a motor car without due care and attention contrary to section 6 of the Motor Vehicles and Road Traffic Law, Cap. 332 and was sentenced by Papadopoulos, D.J. to pay a fine of £8.- and £8.- costs.

G. Pelagias, for the Appellant.

S. Georghiades, Counsel of the Republic, for the Respondents.

The judgment of the Court was delivered by:-

TRIANAFYLLIDES, P.: In this case the Appellant appeals against a conviction, by the District Court of Nicosia, in criminal case No. 454/71, on a charge of driving on the 11th December, 1970, on a public road in the village of Yeri, a motor-car without due care and attention, contrary to section 6 of the Motor Vehicles and Road Traffic Law (Cap. 332).

At the material time the Appellant was driving at a speed not exceeding 15 m.p.h. and he was in the process of overtaking a stationary bus.

The reasons for which the Appellant was convicted are stated to be, in the too brief judgment of the trial Court, that the Appellant drove his car at a speed which was, in the circumstances, unreasonable and did not reduce his speed to a safe limit when overtaking a stationary bus, from which there were alighting and going in various directions over thirty-three passengers.

One of them, a girl, emerged from behind the front of the bus, while crossing the road to go to her house, and blocked, thus, the way of the Appellant; he immediately applied his brakes but he did not manage to avoid hitting her with his car.

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Having heard counsel for the Appellant and counsel for the Respondents—(the latter having, very fairly, pointed out that the evidence of Michalakis Pamboris, a witness called by the defence, but who had given a statement to the Police, might have created a reasonable doubt in the mind of the learned trial Judge about the guilt of the Appellant)—we have reached the conclusion, in the light of the evidence on record, that the situation at the time was not such as that described by the trial Judge in stating his aforementioned reasons for finding guilty the Appellant. This was not a case in which a public road was crowded with people alighting from a bus, so that the Appellant could be expected to take appropriate precautionary measures. The passengers of the bus except one or two of them—one apparently being the girl—had already alighted and gone away before the Appellant started overtaking the bus.

Bearing in mind all relevant circumstances, including the slow speed at which the Appellant was driving and that he immediately tried to stop when he saw the girl emerging suddenly in front of him, we find that it was not warranted to find the Appellant guilty of driving without due care and attention and, therefore, the conviction has to be quashed and the sentence imposed on the Appellant is set aside.

In concluding we would like to draw attention to the right, under Article 12 (5) (a) of the Constitution, of every person charged with an offence to be informed “in detail of the nature and grounds of the charge preferred against him”, and to observe that, though in the present instance for the same reasons as those given in the case of *Kannas v. The Police* (1968) 2 C.L.R. 29 (viz. that, in the circumstances, the Appellant had in fact knowledge of the essential elements of the offence with which he was charged, even if they were not included in the particulars of the count on which he was convicted) we would not have held that the conviction ought to be set aside due to a contravention of the provisions of Article 12 (5) (a), care should always be taken to state in criminal charges all essential details.

Appeal allowed.