

1980 February 11

[A. LOIZOU, DEMETRIADES, SAVVIDES, JJ.]

CHRISTOS KERAVNOS,

Appellant,

v.

THE POLICE,

Respondents.

(*Criminal Appeal No. 4096.*)

Criminal Law—Sentence—Careless driving—Dangerous driving—£60 fine and disqualification for six months—Seriousness of the offence—Frequent and disturbing occurrence of road accidents—Need for deterrent sentences—Appellant’s bad driving record—Sentence not manifestly excessive or wrong in principle—Appeal dismissed. 5

Road traffic—Dangerous driving—Sentence—Seriousness of the offence—Need for deterrent sentences.

The appellant pleaded guilty to the offence of driving without due care and attention and was sentenced to £60 fine and was, also, disqualified from holding or obtaining a driving licence for a period of six months. The offence in question was committed when the appellant attempted to overtake a car at a part of the Nicosia–Limassol road where overtaking is prohibited and in the course of doing so he collided with a car coming from the opposite direction. He was 65 years old, with long driving experience and had five previous convictions since 1974 for driving offences. 10 15

Upon appeal against sentence:

Held, that on the totality of the circumstances, the appellant has failed to persuade this Court that there are reasons for interfering with the sentence imposed by the trial Judge as it is neither manifestly excessive nor wrong in principle; that this Court subscribes to the view expressed by the trial Judge that for road traffic offences involving danger to life and property deterrent sentences should be meted out to offenders taking of 20 25

course into consideration the particular circumstances in each case relating both to the offences and the offenders; and that, accordingly, the appeal must be dismissed. (*Alekou v. Police* (1979) 2 C.L.R. 218 adopted).

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Appeal dismissed.

Cases referred to:

Alekou v. Police (1979) 2 C.L.R. 218 at p. 220.

Appeal against sentence.

10 Appeal against sentence by Christos Keravnos who was convicted on the 20th November, 1979, at the District Court of Larnaca (Criminal Case No. 1519/79) on one count of the offence of driving without due care and attention, contrary to sections 8 and 19 of the Motor Vehicles and Road Traffic Law, 1972 (Law No. 86/72) and was sentenced by Michaelides, D.J.
15 to pay £60.—fine and was, further, disqualified from holding or obtaining a driving licence for a period of six months.

Appellant appeared in person.

S. Nicolaidis, Senior Counsel of the Republic, for the respondents.

20 A. LOIZOU J. gave the following judgment of the Court. This appeal, the notice of which was prepared and filed by the appellant himself is, as eventually argued before us by him, an appeal against sentence and in particular against the disqualification imposed on him on the ground that it is manifestly excessive in
25 the circumstances.

The appellant was found guilty, on his own plea, on a charge of driving on the 27th October, 1978, on the Nicosia-Limassol road, motor vehicle under Registration No. CK 677, without due care and attention, and was sentenced to £60.—fine, £16.850
30 mils costs and was also disqualified from holding or obtaining a driving licence for a period of six months.

The circumstances of the case were briefly these. The appellant was driving the aforesaid vehicle a pick-up type, between the 29th and 30th milestone of the Nicosia-Limassol road which
35 at that part was uphill, formed into an "S" bend and was divided by a white continuous line. In spite of the existence of this white line, which is an indication that overtaking is not allowed at such spot, the appellant started doing so by getting on the

wrong half of the road when it came face to face with motor-car under Reg. No. G.A. 255 which was coming from the opposite direction. On being faced with this situation the driver of this car applied brakes in order to avoid a head on collision but the impact of the two vehicles was not avoided. The vehicle of the appellant was pushed backwards and its rear part hit motor-car under Reg. H.T. 122 which was proceeding on its way behind the appellant, but on its proper side of the road. The driver of motor-car G.A. 255 was slightly injured and all three vehicles sustained damage.

The allegation of the appellant that his vehicle slowed down because of a mechanical defect that developed in the process of overtaking was checked by a police expert on the spot who found that same had been caused by the collision. In any event this could only have been a mitigating factor as the fault of the appellant is the overtaking at the wrong part of the road and not the speed at which he was doing so.

The appellant is 65 years old and with long driving experience and had five previous convictions since 1974 for speeding, driving without reasonable consideration for other road users, two for careless driving, and the last one on the 2nd September 1979 for overtaking on a bend. The sentences imposed on all these previous convictions ranged from £10.—to £17.—fine and binding over.

The learned trial Judge in passing sentence gave due regard to the circumstances of the appellant's driving at the time which caused the collision, endangering thereby his life and the life of others. He considered the previous convictions of the appellant and that his record made his position more serious. He also referred to the tremendous increase of traffic offences on the roads of Cyprus, which called for deterrent sentences.

On the totality of the circumstances, we find that the appellant has failed to persuade us that there are reasons for interfering with the sentence imposed by the learned trial Judge as we find it neither manifestly excessive nor wrong in principle. We subscribe to the view expressed by him that for road traffic offences involving danger to life and property deterrent sentences should be meted out to offenders taking of course into consideration the particular circumstances in each case relating both to the offences and the offenders.

In conclusion we find it useful to repeat here what we said recently in the case of *Alekou v. The Police* (1979) 2 C.L.R. p. 218 at p. 220 in dealing with offences relating to safety on the road, where we had this to say:-

- 5 “ No doubt, offences relating to safety on the road are
of a serious nature. The disregard of the rules and regula-
tions aimed at having safe and orderly use of the roads by
both drivers and pedestrians, coupled with the density of
10 the traffic on our roads, have brought about a frequent and
disturbing occurrence of accidents resulting both in damage
to property and injury and death to persons. For these
reasons, road users and in particular those in charge of
motor-vehicles, should always observe the relevant rules
and regulations for their own safety and that of others.”
- 15 For all the above reasons this appeal is dismissed accordingly.

Appeal dismissed.