

IN THE DISTRICT COURT OF NAURU
CRIMINAL JURISDICTION
CRIMINAL CASE NO: 98 OF 1982

THE REPUBLIC
v.
MORRIS DEMINGAUWE

THURSDAY 1ST JULY 1982 at 9.00 A.M.

In Court

Before: S.C. CHATURVEDI : RESIDENT MAGISTRATE
For The Republic : SERGEANT P. AINGIMEA

For the Accused : Mr. R. Kun
Accused present : in person
Interpreter : Mr. Q. Diema

Court

Judgment announced in open Court. I would now proceed to hear submissions in mitigation if any. Before that, I ask the prosecution ~~when~~ ^{whether} the accused has a previous adverse record?

Mr. Aingimea

Submit previous Conviction Card.

Mr. Kun

No previous conviction for last three years. Unmarried. Working in Works Dept. Living with his parents. Supporting them. His father no longer working. Two brothers are married and have their own families. First offence of D.U.I.

Mr. Aingimea

I do not wish to address the Court regarding sentence.

O R D E R

Although this accused has never earlier been convicted of an offence u/s 21(1) of the Motor Traffic Act, he has been, as a habit, committing offences pertaining to driving. He has been convicted of a serious offence like speeding seven times, and, on one occasion out of 7, he was sentenced to 3 months' imprisonment and, in addition, disqualified from driving for

an year. That did not improve him and within 3 years he was again found guilty of speeding but was, fortunately for him, let off with a light fine.

Besides this offence of speeding, he has six or seven more convictions of traffic offences of minor nature. Total comes to about 14 - all offences taken together and resulting in conviction.

This time he is found guilty of drunken driving coupled with dangerous driving, further with his habitual pastime of speeding. Thus, although D.U.I. is his first offence, it assumes serious proportions when considered with allied offences. He deserves a prison term even independently of DUI because of his bad record of speeding. The circumstances of the present case call for a strict treatment inspite of DUI being his first offence. His not being booked for last three years is not a factor which can mitigate the present offences when taken into consideration with his bad previous record. His family circumstances, as stated in mitigation, are also not such as would make me think otherwise with regard to sentence.

So, he must go to prison. He is sentenced as under:-

- Count 1 : u/s 21(1) of the Act - 3 months' imprisonment with hard labour.
- Count 2 : u/s 19(1) of the Act - 2 months' imprisonment with hard labour.
- Count 3 : u/s 28(a) of the Act read with Section 42(2) of the Act - 2 months' imprisonment with hard labour.

Sentences on Count 1 and 2 will run concurrently but, on account of his bad record of speeding, sentence on Count 3 will be consecutive. Thus, he would serve a total period of 5 months' imprisonment.

In addition, he is disqualified from driving for a period of 1 year and 9 months.

(S.C. CHATURVEDI)
RESIDENT MAGISTRATE

1.7.82

contd....5

Mr. Kun

My client would like to file an appeal.

O R D E R

U/s 10(1) Appeals Act 1972, notice of intention to present an appeal is recorded. The accused shall be released on bail on a personal recognizance of \$ 200. Appeal to be filed within 10 days.

(S.C. CHATURVEDI)
RESIDENT MAGISTRATE

July 1 1982