

IN THE SUPREME COURT OF NAURU
Criminal Jurisdiction
Criminal Appeal No. 12 of 1978

IVAN DORUBENANG

Appellant

v.

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

16th May, 1978 at 3.50 p.m.

In Court

Before Mr. Justice I.R. Thompson, Chief Justice

For the Appellant: -

For the Respondent: Mr. D.G. Lang

Appellant present.

Interpreter: Mr. Alec Harris, Clerk of Courts

APPELLANT: Mr. Star is supposed to represent me.

COURT: The Court has been informed that he is ill.

ORDER: Adjourned until 19th May, 1978 at 2.00 p.m.

I.R. THOMPSON
Chief Justice

19th May, 1978 at 3.05 p.m.

For Appellant: Mr. G. Star

For Respondent: Mr. D. Gioura

Appellant present.

Appeal against severity of sentence.

MR. STAR: The appellant pleaded guilty. He had been to a party. On his way home he went to sleep. His car ran off the road and hit a pedestrian.

The sentence is too harsh in view of the sentences imposed in other cases. On 21st February, 1978, for a similar offence, Myrna Doguape was fined \$40 with 6 months' suspension of licence.

Angelica Itsimaera was charged on three counts, reckless driving, driving an uninsured vehicle and failing to stop after an accident in which a man was killed. She was sentenced to 3 months' imprisonment.

The appellant is a member of the Works Department. He is file of the Servicing Section.

COURT: The sentence is more than the legal maximum.

MR. GIOURA: That is so. However, the offence was very serious. He is a danger to other road users. The appellant had been drinking all night; fell asleep due to intoxication. The maximum penalty is appropriate in such a case.

MR. STAR: The appellant has never been in trouble at all before.

JUDGMENT:

The offence committed by the appellant was very serious. However, the maximum sentence which can be imposed for the offence charged is six months' imprisonment. Some allowance should be made for the appellant's previous good record.

Accordingly the appeal is allowed; the sentence is set aside; and a sentence of 3 months' imprisonment with hard labour is imposed in its place.

As this is a first offence and there is nothing to indicate that the appellant has a drink problem or persistently flouts the law, the period of suspension imposed by the District Court is also too long. It is ordered that it be reduced to 12 months from the date of the appellant's release from prison.

I.R. THOMPSON
Chief Justice-

19/5/78