

ANDREAS
HJI PANTELAS
v.
THE POLICE

ANDREAS HJI PANTELAS,

Appellant,

v.

THE POLICE,

Respondents.

(Criminal Appeal No. 2852)

Road Traffic—Sentence—Driving a motor vehicle without due care and attention, contrary to section 6 of the Motor Vehicles and Road Traffic Law, Cap. 332—Appeal against sentence as being excessive, especially in view of the personal circumstances of the appellant—Fine and disqualification from driving for one year—In the light of the facts of the case and the bad criminal record of appellant as a driver, sentence not manifestly excessive—Even if the personal circumstances of the appellant—not put before the trial Judge—were allowed to be taken fully into account—Binding over of the appellant for two years to keep the peace and be of good behaviour—It is a form of punishment not called for by, or suited to, the essential nature of the aforesaid driving offence.

Criminal Law—Sentence—Disqualification from obtaining or holding a driving licence—Whether excessive—Binding over—See under Road Traffic above.

Binding over to keep the peace and be of good behaviour—It is a mode of punishment not called for by, or suited to, the essential nature of a driving offence—See under Road Traffic above.

Disqualification from holding or obtaining a driving licence—See under Road Traffic above.

Cases referred to :

Mirachis v. the Police (1965) 2 C.L.R. 28.

Appeal against sentence.

Appeal against the sentence imposed on the appellant who was convicted on the 6th October, 1966, at the District Court of Nicosia (Criminal Case No. 18764/64) on one count of the offence of driving a motor vehicle carelessly, contrary to section 6 of the Motor Vehicles

and Road Traffic Law, Cap. 332, and was bound over by Attalides, D.J., in the sum of £50 for two years to keep the peace and be of good behaviour and was further disqualified from holding or obtaining a driving licence for a period of two years.

A. Argyrides, for the appellant.

K. Michaelides, on behalf of the Attorney-General,
for the respondents.

The judgment of the Court was delivered by :

TRIANAFYLLIDES, J.: The appellant in this case appeals against the sentence imposed on him on the 6th October, 1966, after he had pleaded guilty to driving a motor car without due care and attention contrary to section 6 of the Motor Vehicles and Road Traffic Law, Cap. 332. As a result of his careless driving, consisting, *inter alia*, of driving at great speed, the appellant came into collision with a motor-cyclist. He was sentenced to a fine of £10, he was bound over in the sum of £50 for two years to keep the peace and be of good behaviour and he was also disqualified from holding or obtaining a licence for 12 months as from the 6th October, 1966.

Counsel for the appellant has argued that, in the light of the personal circumstances of the appellant, the order of disqualification renders the sentence imposed on him a manifestly excessive one. Counsel has drawn attention, in particular, to the fact that the appellant is a salesman who needs to drive a car for the purposes of his work and that, moreover, he is suffering from an incapacity of his feet, due to injuries received in an accident in the past, as a result of which he can walk with difficulty and he has to go about by car.

Counsel for respondents has, rightly, pointed out that the aforesaid personal reasons of the appellant were never placed before the trial Court and that, even today, no attempt has been made to raise them before this Court in a procedurally proper manner, as *e.g.* by filing a relevant affidavit. He has, further argued that, in any case, the sentence imposed on the appellant is not, in the circumstances of this case, a manifestly excessive one.

In the light of the facts of this case and in view of the bad criminal record of the appellant as a driver—which includes not only an earlier similar conviction but, also, indicates

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a persistent refusal of the appellant to obey an earlier order of disqualification—we are of the view that, even if we were to take fully into account the personal circumstances of the appellant, as stated to this Court today by his counsel, we still could not reach the conclusion that the sentence imposed on the appellant is a manifestly excessive one.

Regarding, next, the binding over of the appellant for two years, in the sum of £50, to keep the peace and be of good behaviour, the Court feels that this is not, indeed, a mode of punishment which was particularly called for by, or suited to, the essential nature of the offence in question. Counsel for Respondents has himself drawn our attention to this point and he has submitted that, in the light of *Mirachis and the Police* (1965) 2 C.L.R. 28, the appellant ought to be bound over to keep the Motor Vehicles and Road Traffic Law and the Regulations in force thereunder. In view, however, of the sentence of disqualification which has been imposed on the appellant, we do not think that it is really necessary to substitute some other form of binding over in this case, and we, thus, limit ourselves to allowing this appeal to the extent only of varying the sentence imposed on appellant so as to discharge the order that he should be bound over in the sum of £50, for two years, to keep the peace and be of good behaviour; otherwise, the sentence is affirmed and this appeal stands dismissed.

Order in terms.