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ANDREAS
GEORGHIOU
v.
THE POLICE

[L. LOIZOU, HADJIANASTASSIOU, MALACHTOS, JJ.]

ANDREAS GEORGHIOU,

Appellant,

v.

THE POLICE,

Respondents.

(*Criminal Appeal No. 3322*).

Road Traffic—Careless driving—Road junction controlled by “Halt” signs—Sections 6 and 13 of the Motor Vehicles and Road Traffic Law, Cap. 332—Accident—Collision at road junction controlled by “Halt” signs—Both drivers negligent—Appellant’s failure to keep his proper side of the road thereby blocking the free passage of the other driver—Held to have amounted to negligence quite independently of the negligence of the other driver.

Road accident—Collision at road junction controlled by “Halt” signs—Both drivers negligent—See supra.

The facts sufficiently appear in the judgment of the Court dismissing this appeal against conviction of driving his motor vehicle without due care and attention contrary to sections 6 and 13 of the Motor Vehicles and Road Traffic Law, Cap. 332.

Appeal against conviction.

Appeal against conviction by Andreas Georghiou who was convicted on the 21st January, 1972 at the District Court of Paphos (Criminal Case No. 4157/71) on one count of the offence of driving without due care and attention contrary to sections 6 and 13 of the Motor Vehicles and Road Traffic Law, Cap. 332 and was sentenced by Laoutas, Ag. D.J. to pay a fine of £8.— and was further bound over in the sum of £30.— for one year to observe the Traffic Laws and Regulations.

L. Papaphilippou, for the Appellant.

V. Aristodemou, Counsel of the Republic, for the Respondents.

The judgment of the Court was delivered by:-

L. LOIZOU, J.: The Appellant together with another person were charged, in Criminal Case No. 4157/71 of the District Court of Paphos, with driving their respective vehicles without due care and attention contrary to sections 6 and 13 of the Motor Vehicles and Road Traffic Law, Cap. 332; they were both found guilty and each was fined £8 and bound over in the sum of £30 for one year "to observe the Traffic Laws and Regulations".

The accident which gave rise to this prosecution occurred on the 25th September, 1971, at about 11.30 a.m. at the junction of Costas Karnavalos and Nicodemos Mylonas streets with Makarios III Avenue in Ktima.

The Appellant, who was accused No. 2 in the case, was driving a goods vehicle along Costas Karnavalos street in the direction of the junction, intending apparently to turn to his right into Makarios III Avenue. The other person, the first accused in the case, was driving a motor-cycle from the opposite direction, that is to say from Nicodemos Mylonas street in the direction of Costas Karnavalos street. As a result of the accident the first accused was slightly injured and he was taken to the hospital by the second accused, the Appellant, but the case was not reported to the Police until 48 hours later, that is on the 27th September, 1971.

A Traffic Branch Policeman, witness No. 1 in the proceedings, visited the scene and prepared a sketch, *exhibit* I, in the presence of both accused. He also took an open statement from each of the accused. The junction where the accident occurred is a controlled junction from the sides of Karnavalos and Nicodemos Mylonas streets; it is controlled by "Halt" signs. Point X.1 on the sketch indicates the point of impact as pointed out to this traffic Policeman by accused No. 1 and point X.2 the one indicated by the second accused, the Appellant. It will be noticed that both points are on the off-side of the road as one proceeds along Karnavalos street in the direction of the junction, that is to say in the direction that the Appellant was going; it further appears from this sketch that at that point, where Karnavalos street joins the junction, the width of the street is 36 feet.

At the trial the learned trial Judge heard the evidence of the Policeman who prepared the sketch, and, also, the evidence of another witness who was sitting in a shop near the scene

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of the accident, but the Court did not find the evidence of the latter witness of much help as he was not in a position to see how the accident actually occurred.

In his statement to the Police, which the Appellant adopted in an unsworn statement from the dock, he says that his goods vehicle was parked outside a shop in Karnavalos street and that there was another vehicle parked in front of it. When he started, he said, in order to by-pass that other vehicle he went to the off-side of the road, that is to his right, he stopped at the "Halt" sign but at that moment a lorry was coming from his left along Makarios III Avenue intending to turn right into Karnavalos street and the driver motioned to him to proceed as there was not sufficient room for the lorry to turn into Karnavalos street. Thereupon he, the Appellant, started off with the intention of turning to his right. At that time the motorcyclist, who was coming from the opposite direction, and who admittedly did not stop at the "Halt" sign of Nicodemos Mylonas street was proceeding in order to enter into Karnavalos street and the two vehicles came into collision. As it was stated earlier, the motorcyclist put the point of impact at X.1 whereas the Appellant at X.2.

The learned trial Judge rejected the allegation of the Appellant, made in his statement, and relying on *exhibit 1* came to the conclusion that whichever the point of impact was—either X.1 or X.2—accused No. 2 was guilty of negligence in that he failed to keep his proper side of the road thereby blocking the free passage of the other accused the motorcyclist and thus contributing to the accident.

We find nothing wrong with this finding of the learned trial Judge and it seems to us that, quite independently of the negligence of the other driver involved, the Appellant was himself negligent, on whatever view one takes of the circumstances of this accident. He obviously had no reason or justification to be at the point where, according to his own version, he was when the accident occurred. And we think that this fact alone is sufficient to support the conviction.

In the result the appeal fails.

Appeal dismissed.