

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

1972

May 5

COSTAS G. ECONOMIDES,

Appellant,

COSTAS G.
ECONOMIDES

v.

THE POLICE

THE POLICE,

Respondents.

(Criminal Appeal No. 3337).

Road Traffic—Driving without due care and attention contrary to sections 6 and 13 of the Motor Vehicles and Road Traffic Law, Cap. 332—Running down case—Complainant stepping on the road when Appellant's motor car was so near him that the Appellant driver had no chance of avoiding the accident—No facts or circumstances on record tending to prove that Appellant was guilty of the offence of which he was convicted—Conviction quashed.

The facts sufficiently appear in the judgment of the Court allowing the appeal and quashing the Appellant's conviction.

Appeal against conviction.

Appeal against conviction by Costas G. Economides who was convicted on the 23rd March, 1972 at the District Court of Nicosia (Criminal Case No. 14804/71) on one count of the offence of driving a motor vehicle without due care and attention contrary to section 6 of the Motor Vehicles and Road Traffic Law, Cap. 332, and was sentenced by Papaioannou, Ag. D.J. to pay a fine of £10.-.

S. Erotokritou (Mrs.), for the Appellant.

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

The judgment of the Court was delivered by:—

STAVRINIDES, J.: At about 7.20 a.m. on November 4 last a car driven by the Appellant along Strovolos Avenue, Strovolos, collided with a boy of about eleven years named Andreas. In connection with that accident the Appellant was

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charged with, and convicted of, driving without due care and attention.

A policeman called as a witness by the prosecution, who arrived on the scene a few minutes after the accident, said that the point of impact was one foot four inches from the near-side edge of the road; and from his evidence about a scratch on the near-side front door it appears that the part of the vehicle that collided with the boy was that door. Two boys aged respectively eleven and twelve years, also called as witnesses for the prosecution, gave evidence to the effect that Andreas was hit "as soon as he set foot" on the road on his way to the other side. This evidence tallies with that of the policeman and means that Andreas stepped on the road when the car was so near him that the Appellant had no chance of avoiding the accident.

In finding the Appellant guilty the learned trial Judge said:

"Bearing in mind all facts and circumstances and in particular the width of the road and that of accused's vehicle and the point of impact being one foot four inches away from the edge of the road as well as the clear vision of visibility and its range I find as positive the fact that accused failed to take any precautionary measures and he brought about this accident".

We are unable to see how the "facts and circumstances" specified in the passage prove, or tend to prove, that the Appellant was guilty of the offence of which he was convicted. For the rest there was no evidence of speeding, and we cannot think what other "facts" or "circumstances" the learned trial Judge regarded as supporting a finding of guilt.

Learned counsel who appeared for the Republic stated that he was unable to support the conviction, and we can only say that that was the proper thing to do.

For the above reasons the conviction is quashed.

Appeal allowed.