

1982 July 30

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

GEORGHIA A. GROUTIDOU,

Appellant.

v.

THE POLICE,

Respondents.

(*Criminal Appeal No. 3432*).

*Road traffic—Careless driving—Long line of vehicles on main road—
Appellant driving on side road and intending to get into main
road and proceed to her right—Bus driver on main road, stopping
his bus and signalling to her to pass—Appellant proceeding
5 slowly to pass, without sounding her horn, emerging in front of
the bus, and colliding with a motor-cyclist who was overtaking
the bus—Her conviction for careless driving sustained.*

The appellant was convicted of the offence of driving a motor-
vehicle without due care and attention in that she collided with
10 a motor-cyclist. The accident in question took place on Homer
Avenue. At the material time there was a long line of vehicles
proceeding at a slow pace along the avenue in the direction
of Pedieos bridge; and at a moment when the line of vehicles
was at a standstill a motor-cyclist went off the line and pro-
15 ceeded along the offside of the line of vehicles. The appellant
was proceeding to the exit of the Nicosia General Hospital
intending to get, into the main road, the Avenue, and proceed
to the right, i.e. in the direction opposite to that of the line
of traffic and of the motor-cyclist. The driver of a bus who
20 saw the appellant waiting at the exit stopped his bus thus leaving
a gap in the line of traffic so that she could get out and signalled
to her to pass. She proceeded slowly to do so and when she
emerged from in front of the stationary bus into Homer Avenue
she collided with the motor-vehicle who was, at the time, over-
25 taking the stationary bus. It was not in dispute that she did
not sound her horn.

The trial Judge found that the signal of the bus driver does not exonerate the appellant from responsibility, because he was not the proper person to regulate traffic by signs; and that since she was intending to enter in the main road and to proceed to her right, as she was unable, because of lack of visibility, to make sure as to whether the road was free of traffic, she failed to take all necessary steps and particularly failed to use the horn of her vehicle in such a way as to draw the attention to the drivers of the other vehicles which she ought to have expected that they would be moving side by side of the line of the immobilized vehicles and in the circumstances she was unable to do what is expected out of a reasonable person to behave. 5 10

Upon appeal against conviction:

Held, that as this Court is in agreement with the findings of the trial Judge and his reasons in finding the appellant guilty, has no alternative but to dismiss the appeal. 15

Appeal dismissed.

Appeal against conviction.

Appeal against conviction by Georghia A. Groutidou who was convicted on the 14th March, 1973 at the District Court of Nicosia (Criminal Case No. 14791/72) on one count of the offence of driving without due care and attention contrary to section 6 of the Motor Vehicles and Traffic Law, Cap. 332 and was sentenced by Chr. HadjiNicolaou, Ag. D.J. to pay £7.- fine. 20 25

G. Pelagias, for the appellant.

N. Charalambous, Counsel of the Republic, for the respondents.

Cur. adv. vult. 30

L. LOIZOU J. read the following judgment of the Court. The appellant was accused 2 in Criminal Case No. 14791/72 and was charged with 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. She was found guilty of this offence and was sentenced to a fine of £7.-. 35

She appealed against her conviction on the ground that the trial Court was wrong in law in finding her guilty of the offence. A second ground of appeal to the effect that the findings of fact are not supported by the evidence was abandoned. 40

The undisputed facts of the case in so far as they are relevant are briefly as follows:

At about 13.30 hours on the 20th May, 1972, which is a rush hour in so far as traffic in Nicosia is concerned, there was a long line of vehicles proceeding at a slow pace along Homer Avenue in the direction of Pedieos bridge. At a moment when the line of vehicles was at a standstill a motor-cyclist, accused 1 on the charge-sheet before the District Court, went off the line and proceeded along the offside of the line of vehicles. The appellant who was employed in the Nicosia General Hospital as a nurse having finished her work at that time got into her car which apparently was parked in the precincts of the Nicosia General Hospital and proceeded to the exit which leads into Homer Avenue intending to get into the Avenue and proceed to the right, i.e., in the direction opposite to that of the line of traffic and of the motor-cyclist. She stopped at the exit gate and waited for a chance to get into the Avenue. The driver of a bus who saw the appellant waiting in the car at the gate of the hospital stopped his bus thus leaving a gap in the line of traffic so that she could get out and signalled to her to pass. The appellant proceeded to get into the road and turn to her right. In so doing, she said that she proceeded slowly and stopped twice before her car was level with the middle of the front of the bus. Her car was about five or six feet from the front of the stationary bus and in view of this proximity and the size of the bus she could not see the road to her right at all whereas to her left she had a clear vision of about twenty metres. She would obviously have a better view of the direction to her right, she said if she had driven more to the left. But, be that as it may, she proceeded slowly and when she emerged from in front of the stationary bus into Homer Avenue she collided with the motor-vehicle who was, at the time, overtaking the stationary bus. It is not in dispute that she did not sound her horn.

On appeal counsel on behalf of the appellant Georgia A. Groutidou argued (a) that the trial Judge wrongly found the appellant guilty from the totality of the evidence before him; and (b) that the conclusions of the trial Judge as based on the facts are not supported nor are reasoned by the evidence as a whole. The trial Judge in examining the statement of the second accused had this to say at pp. 11 - 12 of the record:

“As it appears from the evidence of accused 2 when she

took, as she alleged, a sign of her course from the driver of the bus - a fact which obviously does not exonerate her from responsibility, because the said driver was not the proper person to regulate by signs the traffic - she proceeded with the minimum speed and the front part of her vehicle protruded only by one to two feet from the line of the immobilized cars; and when she blocked the free course of the vehicle of the first accused, she collided on it without being possible for her to see the first accused moving side by side and too near the line of the said vehicles which were preventing her visibility.”

The the trial Judge went on to say:

“Since, however, the second accused, who was intending to enter in the main road and to proceed to her right, as she was unable, because of lack of visibility, to make sure as to whether the road was free of traffic, she failed to take all necessary steps and particularly failed to use the horn of her vehicle in such a way as to draw the attention to the drivers of the other vehicles which she ought to have expected that they would be moving side by side of the line of the immobilized vehicles and which definitely she was unable to see and failed in accordance with the judgment of the Court to take the required care and attention, and in the circumstances she was unable to do what is expected out of a reasonable person to behave, and for all these reasons, the Court finds the second accused guilty for the fifth count viz., driving her motor-vehicle without due care and attention.”

We have examined with care all the contentions of counsel for the appellant but as we find ourselves in agreement with the findings of the learned trial Judge and his reasons in finding the appellant guilty, we have no alternative but to dismiss the appeal.

Appeal dismissed.