

**THE ATTORNEY-GENERAL v. SHIU PRASAD**  
(f/n ASHRAF)

[Appellate Jurisdiction (Hammett, A.C.J.) March 9th, 1956]  
*Exceeding the speed limit—evidence of speedometer reading—checking by stop watch.*

The Acting Senior Magistrate, Suva, acquitted the respondent of the offence of exceeding the speed limit contrary to section 56 of the Traffic Ordinance, 1954 and Order 2 of the Traffic (Speed Limit) Order, 1954.

The facts were that the Senior Certifying Officer and a Police Sergeant followed the accused's vehicle in a car. They both gave evidence to the effect that the speedometer of their car while so following the respondent read between 40 and 45 m.p.h.

This speedometer was checked a few days later and found to be accurate. There was no evidence to show that the stopwatch by which the accuracy of the speedometer was checked was accurate.

No evidence was given by the respondent nor did he call witnesses.

On appeal by the Attorney-General—

**HELD.**—(1) Corroboration of the evidence as to speed is not necessary in the Colony of Fiji;

(2) Evidence of a speedometer reading without proof of its accuracy can be prima facie evidence of speed.

Cases referred to:—

*Melhuish v. Morris* [1938] 4 A.E.R. 98.

*Penny v. Nicholas* [1950] 2 A.E.R. 89.

*Russell v. Beesley* [1937] 1 A.E.R. 527.

*Wallace-Johnson v. R.* [1940] 1 A.E.R. 241.

*Justin Lewis*, Acting Solicitor-General, for the appellant.

*K. C. Ramrakha* for the respondent.

**HAMMETT, A.C.J.**—In the learned Magistrate's brief judgment he ruled that there was no corroboration of Mr. Goodrum's opinion of the speed at which the accused was travelling because there was no evidence of the accuracy of the stopwatch by which the accuracy of his speedometer had been checked. The learned Magistrate ruled that "corroboration is essential where speed is concerned".

In this direction to himself he erred. His statement of the law is correct in respect of such traffic offences under the Road Traffic Act in England by virtue of the specific provisions of section 10 of that Act. There is, however, no corresponding provision in the Traffic Ordinance in Fiji. The decision of *Wallace-Johnson v. the King* [1940] 1 A.E.R. 241 makes it clear, that where a Colonial Ordinance purports to contain a full statement of the local law it is not correct to call in aid the corresponding legislation of the United Kingdom, but the local Ordinance must be construed solely according to its own tenor. For this reason the learned Magistrate erred in directing himself, as would have been correct in England, that corroboration is essential in a charge of speeding in Fiji. It may well be desirable, but it is not essential.

The question of what does amount to corroboration in a speeding case was discussed at some length in the case of *Penny v. Nicholas* [1950] 2 A.E.R. 89. It is unfortunate that the prosecutor in the Court below did not draw the attention of the learned Magistrate to that case. It is also apparent that no consideration was given to the cases of *Russell v. Beesley* [1937] 1 A.E.R. 527 and *Melhuish v. Morris* [1938] 4 A.E.R. 98. It is clear that a stopwatch is necessary to check the accuracy of a speedometer. It would appear, at first sight, that it is necessary in turn to have some evidence of the accuracy of the stopwatch. This could only be produced by evidence that the stopwatch had been found accurate on being tested by another stopwatch or electrical or mechanical device, which, in turn, must, if the learned trial Magistrate's contention is correct, be proved to be accurate by having been tested against another stopwatch and so on *ad infinitum*. In other words, it might well be impossible to prove the accuracy of any stopwatch in Fiji. This was the same problem which arose in the case of *Penny v. Nicholas*. It was there held that even if there was no evidence of the accuracy of a speedometer, it was a question of fact in each case. The Justices may accept the evidence of a speedometer reading, if so minded, and may act upon it even though there is no admissible evidence that the speedometer has been tested.

In this case there was both evidence of a speedometer reading and that the speedometer had been tested.

It is quite clear to me therefore that the learned Magistrate acquitted the accused on the charge of speeding because he had misdirected himself on both the question of whether corroboration was necessary or not, and what in law, in speeding cases, did amount to corroboration.

Order of acquittal reversed, accused convicted.