

IN THE DISTRICT COURT OF NAURU
Criminal Jurisdiction
Criminal Case No. 123 of 1978

THE REPUBLIC

v.

TEDDY DABUE

CHARGE: Driving under the influence of intoxicating liquor, C/S 21(1) of the Motor Traffic Act 1937-1973.

JUDGMENT:

The case for the prosecution is that the accused was detected driving a motor vehicle on the 13th February, 1978 whilst under the influence of intoxicating liquor.

The prosecution evidence is that whilst a police patrol car was proceeding towards Baiti, the police officers noticed a vehicle coming towards them travelling on the wrong side of the road. It was coming directly in front of their car.

Conts. Iwugia has stated in his evidence that he brought the police car to a halt. He noticed the driver bending over the steering wheel as if he was asleep. When the vehicle was about 20 yards from the police vehicle, the driver looked up ahead, swerved his car, and just missed the police vehicle. The car kept on going and they followed him. When the car eventually drove into a private home, he drove up to the car. He noticed the accused, who was the driver, in a drunken state. His eyes were blood-shot, his speech was very slurred and he smelt heavily of alcohol and when he got down from the car, he almost fell over and he had to hold him under the arm-pit.

Sgt. Kapua has stated in his evidence that the accused was coming towards them, travelling on his

extreme right. There would have been a headlong crash if Const. Iwugia had not swerved the car to avoid an impact. On this point there is a contradiction as Const. Iwugia has stated that it was the accused who swerved his car to avoid an impact. This contradiction, however, does not materially affect the prosecution case and does not in any way taint the evidence of the two police officers.

As regards the state of the accused, Sgt. Kapua's evidence is that he got a strong smell of intoxicating liquor, he looked sleepy and was swaying. When he first saw the accused, he was leaning on his steering wheel as if he was sleepy.

On an examination of the evidence of the two police officers, I find that they corroborate each other on all material particulars. I, therefore, accept their evidence in toto.

Dr. Bill, who examined the accused, has stated that the accused would not have been steady in his driving - the medical report has been tendered as Ex. "P".

Therefore, on an examination of the evidence, I am of the opinion that at the time of detection the accused was well under the influence of intoxicating liquor. I, therefore, hold that the prosecution has proved its case beyond all reasonable doubt and I find the accused guilty and convict him.

R. L. DE SILVA
Resident Magistrate

15th March, 1978.