

IN THE SUPREME COURT OF NAURU

Criminal Jurisdiction

Criminal Appeal No. 8 of 1977

ANGELICA ITSIMAERA

Appellant

v.

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

29th September, 1977 at 8.30 a.m.

In Court

Before Mr. Justice I.R. Thompson, Chief Justice

For the Republic: Mr. D. Lang

For the Appellant: Mr. L. Keke

Appellant present.

Interpreter: Mr. J. Brechtefeld.

MR. KEKE: Appeal against severity of sentence*. (States offences of which appellant convicted.) No appeal against sentences on 2nd and 3rd counts. On count 1 only.

(Review facts.)

Appellant detained for one week after incident. Later released by Court. Several adjournments. Case not heard until 25th July.

Appellant is 26 years old. Clerk of Courts at time of accident. Now in Philatelic Bureau. Single. Two children, aged 4 and 3. Younger one will be three on 3rd October.

Educated at Catholic school in Nauru and in Melbourne. Lives with parents; two sisters and a brother. Sisters at school. Brother unemployed. Sister overseas at school. Father and self, bread-winners of family.

During period between accident and trial appellant underwent period of anxiety and was unable to appear in public

because of embarrassment about the serious matter. Spent one week in prison.

During period since conviction has been in contact with relatives of deceased. On their side the matter appears to have been forgotten so far as the accused is concerned.

Reckless driving serious but accused has tried to win back her reinstatement in society. Anxiety.

No previous convictions.

Some strain on family financially if she goes to prison. I ask for sentence other than one of imprisonment or at least a reduced term of imprisonment to take account of long period of anxiety and public shame, and that she is unmarried mother.

Appellant's driving licence suspended for one year.

MR. LANG: Facts appear fully in Acting Resident Magistrate's notes. Two matters need to be brought to attention. On the facts this was a serious incident of reckless driving. Prosecution only just felt justified in not laying a more serious charge. Maximum sentence available in respect of offence in count 1 was 6 months' imprisonment. While appellant had no previous conviction of motor traffic offences but the circumstances as to the gravity of offence justified the sentence imposed. Sentence should stand.

MR. KEKE: I do not wish to reply.

JUDGMENT:

This was a serious case of reckless driving. In all the circumstances, including both those of the offence and those personal to the offender, the sentence imposed was neither wrong in principle nor harsh and excessive. Accordingly the appeal is dismissed.

I.R. THOMPSON
Chief Justice

29/9/77

*(Sentence: 3 months' imprisonment.)