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REGINA V. DORIGA- MANURU

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ANN C.J.:

The Accused has pleaded guilty to four counts of Forgery. All of these offences were committed within a short period of time as was also an offence in relation to another cheque in respect to which he was sentenced to four months' imprisonment early this year. Owing to the state of the available evidence, the Accused was at that time convicted not of forgery but of Attempting to Obtain Money by False Pretences, and the other offences could not be proceeded with. The Accused voluntarily disclosed all these offences and desired to be dealt with in respect of all of them at the same time, but in the circumstances such a course became impracticable. In the result the Accused has served a sentence of four months' imprisonment which in the circumstances might well have been made concurrent with the sentences imposed for the present offences had all these cases been heard or taken into account at the same time. This circumstance may explain to some extent why such a small sentence was imposed for a second offence, for the Accused was in 1958 sentenced to two years' imprisonment for Forgery.

The sentence of four months' imprisonment having been imposed for the last of a series of similar offences, should not now be taken into account against the accused as a prior conviction, but I think that it would be appropriate to allow in favour of the accused for the fact that he has already served a sentence of four months' imprisonment which so far as the willingness of the Accused to confess was concerned, might well have been served concurrently.

Mr. Cruickshank for the Accused, pressed strongly a submission that I should give recognition to the fact that the Accused has apparently made a recent determination to reform himself and keep out of trouble in the future, by giving him the benefit of a Bond with a warning that he would immediately be called up for sentence and given a substantial sentence if he got into any further trouble. In spite of Mr. Cruickshank's arguments my impression was throughout entirely adverse to the Accused on this question. Never

theless I did not want to deprive the Accused of any further opportunity which I might properly afford him to remedy his behaviour, without full consideration. I therefore remanded the Accused for Sentence until this morning, in the hope that whatever course I decided to take, it might do much good if the Accused as well as I, gave the whole matter careful consideration.

The more I consider the matter the more confident I feel that my first impressions were right. It cannot be, and is not in fact my objective to impose light sentences whenever possible. It is the duty of the Judge to impose within the range indicated by statute, what he considers an appropriate penalty in all the circumstances, yet freely exercising the discretion left to the Court, especially with regard to first offenders. I have in many cases imposed very light or nominal sentences upon convicted persons, especially in cases where this aids in the essential task of trying to help accused persons with little or no knowledge of the law, to arrive at some understanding of their social obligations and learn to lead a more responsible and therefore more useful life in the future. A further consideration is that in many cases it seems to me to be proper when assessing sentence, to relate the question of criminal responsibility to the social conditions under which the accused is living and to the extent to which he is deriving some protection from the law and from the community as a whole.

Although considerations of this kind frequently lead to the imposition of light or nominal sentences for a first offender in out of town areas, and although even in some forgery cases where uneducated natives living in town areas have committed for the first time some clumsy and amateurish attempt at forgery, none of these considerations can fairly be applied to the Accused.

The Accused is a member of a very responsible group of people, well-known and well-respected and he bears a name which is equally well-known. He has had very substantial advantages in education and became a school-teacher well qualified to do much to help and advance his people by his example. I do not know the precise circumstances in which he ceased to be a teacher but at some time in or about 1958 he became a taxi-driver and at the present time he is employed as a bus-driver. In 1958 he was convicted of forging a cheque and sentenced to two years' imprisonment. Even if I were free to consider this as a severe sentence for a first offence, it would still appear that the offence which he then committed

was a serious and substantial one and that the Court concluded that there were no substantial grounds for exceptional leniency. Very soon after he was released from gaol he committed the present series of offences by cashing valueless cheques signed in a fictitious name, mostly in denominations of \$10. He showed in his handwriting and in a number of details on the cheques, that he exercised considerable care, made very effective use of his education to produce very convincing cheques and also displayed a thorough understanding of normal banking and business practice.

These forgeries were committed with a full understanding of what was involved, deliberately and with care to avoid detection. The Accused had had a thorough warning and had had plenty of time to consider his position during his long gaol sentence. Now with the risk of a considerably higher sentence hanging over his head, it is understandable that he should do his utmost to convince the Court that he really means to turn over a new leaf. I am not impressed by the Accused. I think he is weak and selfish and apart from some quite generous contributions towards the support of immediate members of his own family, has shown no regard for his responsibility to the community as a whole.

Because the Accused has enjoyed advanced social status and educational advantages, he cannot escape his responsibilities on the ground that going to gaol would be distasteful or inconvenient to him. At a time when the world is forcing upon his people and all the other groups of people living in remoter areas and in far more difficult circumstances, the onerous responsibilities of very rapid social changes, those members of the community who have the advantages of education, some degree of economic security and great opportunities to play a useful and responsible part in society, are under a greater obligation to the community to play their proper part. An individual has a right to be selfish if he pleases, but if he is going to use his advantages to lead his people towards dishonesty and to embark on a career of deliberate crime, then there is very little that can carry much weight in his favour. If with a full understanding of his responsibilities, he is not prepared to demonstrate some public-spirited attributes, at least the sanctions of the Criminal Law can compel him to observe the minimum standards which the community will tolerate and in assessing the appropriate penalties, it will not be thought that the community ~~is~~ either in his debt or likely to be better served by extending further opportunities to him to commit offences.

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earlier, I will treat all these cases as if they had been dealt with in such a way that the sentences could be made concurrent.

This at least is a concession which the Accused may expect to be withheld from him if on completion of his sentence he returns to his practice of forging cheques or adopts any other form of dishonesty.

The application for exercise of discretion in favour of the Accused in relation to a bond or suspended sentence is rejected.