

KOROMA v THE STATE

CA

COURT OF APPEAL OF SIERRA LEONE, Criminal Appeal 4 of 1979, Hon. Mr Justice Ken E O During PJ, Hon Mr Justice F A Short JA, Hon Mr Justice S M F Kutubu JA, 26 September 1979

[1] Criminal Law & Procedure – Summing up – Reckless driving – Whether jury must be told what in law amounts to reckless driving – Whether jury must be directed as to the degree of negligence which would amount to manslaughter, reckless driving or dangerous driving

The appellant argued that the learned trial judge failed to direct the jury on the degree of negligence necessary to constitute the offence of manslaughter or reckless driving.

Held, per Ken During JA, allowing the appeal

Failure to allow the jury to appreciate the degree of negligence necessary to constitute the offence of manslaughter, reckless driving or dangerous driving was fatal.

Appeal

This was appeal by Vandy Koroma against a conviction for reckless driving in the High Court of Sierra Leone. The facts appear below.

Mr C F Margai for the appellant.

Mr A K A Barber, Principal State Counsel & Mr J M Kamanda, State Counsel, for respondent.

KEN DURING JA: The appellant has complained that the learned trial judge did not direct or adequately direct the jury on the constituents of “reckless driving” to justify the conviction. We have read the summing up of the learned trial judge and we agree that the learned trial judge did not direct the jury on the constituents of “reckless driving.” The jury must be told what would in law amount to reckless driving. Nowhere in the summing up did the learned trial judge direct the jury as to the degree of negligence which would amount to manslaughter, reckless driving or dangerous driving. We have repeatedly in this court stated that a judge in cases of this kind should let the jury appreciate what degree of negligence would be necessary to constitute the offence of manslaughter, reckless driving or dangerous driving. Failure to direct the jury as we have stated above is fatal and on this ground alone the conviction could not stand. We also have come to the conclusion that on the evidence before the court the finding that the appellant was guilty of reckless driving was unreasonable. We allow the appeal, quash the conviction and order that a verdict of acquittal be entered.

SHORT JA: I am in entire agreement with the judgment written by Ken During JA Presiding. The learned trial judge’s summing up is astonishing. There are grave and fatal lacunae therein ranging from mis-direction to non-direction. Learned Principal State Counsel conceded Ground 1, ie, non-direction. The very essence of “negligence” in relation to a charge of manslaughter or that of reckless driving was never explained to the jury. The only evidence as to the circumstances attending the death of Alfred Moigular is the statement by the appellant exhibit “C”. This is bereft of any material to support a conviction for reckless driving.

Reported by Glenna Thompson