

28 ta' April, 1962.

Imhalef:—

ONOR. Dr. W. Harding, C.B.E., K.M., B.Litt., LL.D.

Il-Pulizija.

versus

Carmel Galea

**Traffiku — “Third Party Risks” — Certifikat tal-‘Insurance’  
— Art. 8(1) u 22 tal-Kap. 165.**

*Il-tigi trid illi driver li jkun qiegħed isuq karrozza tal-mutur jipproduċi lill-Pulizija l-polza tas-sikurtà għar-riskji ta' terzi persuni meta din tigi lilu millluba, jew almenu li jipproduċiha lill-Pulizija fi żmien jumejn minn meta ssirlu t-talba. Iżda b'x tigi ntegrata din il-kontravvenzjoni ma hemmx bżonn li t-talba għall-produzzjoni ta' dak iċ-certifikat issir lid-driver waqt li dan ikun qiegħed isuq il-karrozza, imma hu biżżejjed li t-talba ssirlu anki wara.*

Il-Qorti:— Rat l-imputazzjoni quddiem il-Qorti Kriminali tal-Magistrati ta' Malta kontra Carmel Galea talli fl-10 ta' Novembru 1961 f'xi l-11.45 a.m. waqt li kien isuq car no. 3998, daħal il-Belt Valletta sa St. Sebastian Street, mingħajr ma kellu liċenza għal dik il-lokalità; barra minn dan, naqas li jipproduċi l-polza tas-sikurtà lill-Pulizija skond il-ligi;

Rat is-sentenza ta' dik il-Qorti tad-29 ta' Diċembru 1961. li tiha ddeċidiet billi sabet lill-imputat hati biss tal-ewwel reat, minnu ammess, u kkundannatu għall-multa ta' £5, iżda lliberatu mill-imputazzjoni l-oħra. Dik il-Qorti kkunsidrat;

Illi l-ewwel reat dedott ma jipprezenta ebda diffikultà, peress li jinsab sostnut bl-aħjar prova, jiġifieri bl-ammissjoni ta' l-istess imputat;

Illi l-fatti tal-kawża, li huma s-segventi, lanqas ma huma kontestati. P.C. 499 Joseph Caruana ra lill-imputat isuq il-karrozza numru 3998 diehel il-Belt. iżda għal xi raġuni jew oħra ma waqqfux. L-għada, però, baġhat għal-lich; u meta l-imputat mar ikellmu l-Police Headquarters, talbu ċ-ċertifikat tal-"insurance", li ma ġiex prodott non-ostante d-dekors taż-żmien legali;

Illi t-tieni reat hu prevedut fl-art. 8(1) tal-Kap. 165, li jgħid hekk:— "Any person driving a motor vehicle on a road shall, on being so required by any member of the Police Force, give his name and address, and the name and address of the owner of the motor vehicle and produce his certificate; and if he fails so to do, he shall be guilty of an offence; provided that, if the driver of a motor vehicle, within two days after the date in which the production of a certificate was so required, produces the certificate in person to the Commissioner of Police, he shall not be convicted under this sub-section of the offence of failing to produce his certificate";

Illi din id-dispożizzjoni hi riprodotta "ipsis verbis" mill-art. 40(1) tar-Road Traffic Act, 1930. U Shawcross (The Law of Motor Insurance p. 249 et seq., ediz. 1949) jikkommenta fuq il-frazi "driving a motor vehicle on a road" b'dan il-mod:— "This involves the difficult question of construing the meaning of the expression 'driving'..... It is submitted with some hesitation, having regard to the wording of the following subsection, that in subsection 40(1) 'driving' must receive its ordinary literary meaning, since there is nothing to qualify or displace it. Thus, the duty imposed by the subsection is limited to cases where a motor vehicle is being driven on a road. It does not apply when a vehicle is not being driven, i.e. when it is stationary and driverless..... To conclude the discussion upon this subsection it remains only to indicate a defect in the subsection which, if pursued to its logical conclusions, would frustrate its entire purpose. This lies in the wording of the subsection, which obliges a person driving a motor

vehicle to give certain information and produce documents in circumstances such that he cannot possibly comply with this duty unless he stops. Once he stops, he is no longer driving the motor vehicle. Upon a strict construction of the subsection, a person who is not driving a vehicle cannot be called upon to comply with its provisions; by stopping, therefore, a driver would be able to evade his obligations under the subsection. In order to avoid this extraordinary position, therefore, it is necessary to construe the subsection alongside with section 20(3) of the Act..... any person driving a motor vehicle on a road shall stop the vehicle on being so required by a Police Constable in uniform" — regola din tal-aħħar li ssib korrispondenza fir-regolament 100 tal-Government Notice 24 tal-1948:— "Every person driving or having charge of a motor vehicle shall at all times immediately comply with any order given by the Police for the purpose of regulating traffic";

Illi mill-osservazzjonijiet ta' Shawcross fuq miġjuba tinzel il-konsegwenza illi t-talba għall-produzzjoni tas- "certificate of insurance" għandha ssir fil-ħin li l-persuna tkun qegħdha ssuq; tant li l-istess awtur jikkonkludi (p. 252):— "Before the requirements of the present subsection would come into operation it would, as a rule, be necessary for the driver to be called upon to stop";

Illi, similmnt, Hector Hughes fil-ktieb tiegħu "Road Users Rights, Liabilities and Insurance" (paġ. 377 et seq. ediz. 1938) jgħid li l-produzzjoni taċ-ċertifikat għandha tintalab lil min ikun isuq fil-ħin tas-sewqan ("whilst driving");

Illi, inoltre, fil-korċett tal-legislatur, ikun hemm diġà reat perfett bil-mankata produzzjoni taċ-ċertifikat fil-ħin tar-rikjesta, iżda d-driver jiġi eżentat minn kull responsabbiltà kriminali jekk huwa, wara li ssirlu t-talba "whilst driving", jipprova li jipprezenta dak iċ-ċertifikat lill-Kummissarju tal-Pulizija fi żmien jumejn minn dak inhar li saritlu t-talba;

Illi, kif intqal, l-imputat ġie mitlub jipprezenta ċ-ċertifikat l-għada, meta huwa ma kienx "driving on a road";

Rat ir-rikors li bih l-Attorney General appella kontra l-liberatorja mit-tieni mputazzjoni;

Trattat l-appell;

Ikkunsidrat;

Il-kwistjoni hi waħda purament ta' ligi;

Bir-rispett kollu għall-Ewwel Qorti, din il-Qorti ma tistgħax taqbel fi-interpretazzjoni li giet mogħtija lill-art. 8(1) tal-Kap. 165 Ediz. Riveduta. Fis-sentenza appellata hemm citat ix-Shawcross in sostenn tal-konklużjoni li waslet għaliha dik il-Qorti. Izda, fil-bran citat proprjament dak l-awtur ma jagħmelx hlief jipprospetta l-interpretazzjoni strettament "letterali" tat-test tal-ligi; liema nterpretazzjoni hu stess jikkunsidra bħala konducenti għal "an extraordinary position"; u għalhekk jissuggerixxi li, biex tiġi evitata dik il-konklużjoni inaċċettabbli, wiehed għandu jaqra d-dispożizzjoni in parola flimkien ma' test ieħor tal-istess ligi; vwoldiri dak l-awtur jissuggerixxi li ssir, anzikkè l-interpretazzjoni letterali, d'ik "logika", bl-ajjut ta' din id-dispożizzjoni l-oħra, u dan in konformità għal waħda mir-regoli fundamentali tal-ermenewtika forensi, ċjoè "Non mens verbis sed verba menti servire debent";

Però, lanqas jidher li hemm bżonn dan iċ-ċirkuwitu biex wiehed jasal għall-konklużjoni ġusta. Il-kliem fi-art. 8 "any person driving a vehicle on a road" ifisser id-driver, u "driver", skond id-definizzjoni li tagħti l-istess ligi, Kap. 165, fit-tieni artikolu, huwa kull persuna "engaged in the driving of a vehicle". Il-fatt li dik il-persuna tkun għamlet sosta temporanea, bħal f'dan il-każ, ma jreħhi bl-ebda mod li dik il-persuna tkun il-persuna "engaged in the driving of a vehicle". Il-ligi, fi-art. 8 użat il-kliem "any person driving a motor vehicle on a road", minflok ma qalet sempliċement "any driver", sabiex tkun konsentanea magħha nfiha, in kwantu li fit-tielet artikolu, li hu dak bażilari, għax fih hemm preskritta in-neċessità tal-"cover" għat-"third party risks", din in-neċessità hi preskritta appuntu in relazzjoni għal "user" ta' motor vehicle "on the road" u għalhekk, trattandosi ta' dispożizzjoni rigwardanti l-produzzjoni taċ-ċertifikat attestanti dak il-"cover", kien naturali li l-ligi tirrendi l-istess konċett ta' "motor vehicle" li jgehdha tintuża "on the road";

Għal dawn ir-raġunijiet, tiddecidi billi tilqa' l-appell tal-Attorney General, tirrifirma s-sentenza appellata billi tħalli mmutata dik il-parti tagħha li ma gietx appellata. u li biha l-imputat instab hati tal-ewwel imputazzjoni u gie kundannat għall-multa ta' £5, u tirrevokaha filli sabet l-imputat mhux hati tat-tieni mputazzjoni billi ssibu hati anki ta' dik l-imputazzjoni; u wara li rat l-art. 22 tal-Kap. 165 Ediz. Riv., tikkundannah għal din l-imputazzjoni għall-piena tal-multa ta' £5; u taħt l-istess artikolu tor-dnalu li jipproduci lill-Pulizija ċ-ċertifikat tiegħu tas-sikur-tà fi żmien tmienja u erbgħejn siegħa, taħt penali ta' 5s. kulljum ta' nuqqas jew ritard. U b'hekk ipprovdiet fuq l-appell.

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