**Dhukale v Universal Tpt Co and others**

**Division:** High Court of Kenya at Mombasa

**Date of judgment:** 27 May 1974

**Case Number:** 2/1971 (110/74)

**Before:** Sir Dermot Sheridan J

**Sourced by:** LawAfrica

*[1] Evidence – Privilege – Police traffic file – Generally not privileged – Evidence Act* (*Cap*. 80) s. 132

(*K.*).

*[2] Evidence – Privilege – Observations of public officer – Not privileged – Evidence Act* (*Cap*. 80) s.

132 (*K*.).

**Editor’s Summary**

The plaintiff in a running down case served a summons on the officer in charge of a police station to give evidence and to produce the police file on the accident.

The officer refused to produce the file claiming that it was privileged from production.

**Held** –

(i) what is privileged is any communication from any person the disclosure of which is not in the

public interest;

( ii) there is no privilege in respect of a public officer’s own observations;

(iii) in general no privilege attaches to communications regarding a traffic case, and there is a public interest in the police assisting the victims of a traffic accident (*Mohindra v. Mathras Dass* (1) distinguished; *Raichura v. Sondhi* (2) considered);

(iv) the memory of a witness may be refreshed from a police file.

Order accordingly.

**Cases referred to Judgment:**

(1) *Mohindra v. Mathras Dass* (1941), 19 K.L.R. 67.

(2) *Raichura v. Sondhi*, [1967] E.A. 624.