

SUMMARY OF JUDGMENT

INTRODUCTION:

This case borders on Criminal Law and Procedure.

FACTS:

The appeal is against the decision of the Court of Appeal which dismissed the appeal and affirmed the decision of the Oyo State High Court which found the appellant guilty for the offence of causing death on the high way by dangerous driving contrary to Section 4 of the Federal Highway Act No.4 of 1971 and dangerous driving contrary to Section 5(1) of the same Act. The facts of the case are fairly simple and straightforward. The prosecution's case was that in the evening of 5th December, 1979, Nuru Wangara (1PW) was driving a trailer with Registration No. 6323K from Lagos to Kano. When he got to a point between Oyo and Ogbomoso and was ascending a hill, another trailer with Registration No. LAD 3323A driven by the appellant suddenly emerged from the opposite direction. 1PW was on his own side of the road when the appellant's vehicle left his side and brushed the left side of 1PW's vehicle and ended up in the gutter. A passenger in the appellant's vehicle who incidentally happened to be the appellant's master got killed in the accident.

The appellant's case was that as he was descending the hill, he saw two vehicles coming from the opposite direction. According to him, both vehicles were moving side by side and on seeing this, he applied his brakes but that notwithstanding, 1PW's vehicle collided with his own which eventually somersaulted into a ditch. The Appellant pleaded not guilty to the charge. At the end of the trial, the learned trial judge carefully evaluated all the evidence adduced by both parties and came to the conclusion that the case against the appellant had been proved. He accordingly found the appellant guilty on both counts and sentenced him to 3 years imprisonment on the first count, and six months on the second count. Both sentences were to run concurrently. In addition, he disqualified the appellant from driving for a period of 3 years after the expiration of the terms of imprisonment. The appellant being dissatisfied with his conviction and the sentences imposed, appealed to the Court of Appeal which dismissed his appeal and affirmed the decision of the trial Court. The Court of Appeal however, set aside the order disqualifying him from driving for 3 years.

The appellant, still dissatisfied with the decision of the Court of Appeal, appealed to the Supreme Court.

ISSUES:

The Court determined the appeal based on the Grounds of appeal couched by the Appellant as described below:

1. The first ground of appeal is that the Court of Appeal made two contradictory statements on the degree of negligence which the prosecution must prove in order to establish a charge under S.4 of the Federal Highway Act.

2. The complaint in the second ground of appeal is that after the Court of Appeal had held that Exhibit 'A' (the sketch of the scene) and exhibit 'B' (appellant's statement to the Police) were inadmissible, the Court should have set aside the conviction of the appellant.

3 & 4. The complaints made in grounds 3 and 4 concerns the alleged use of Exhibits 'A' and 'B' by the trial Court.

5. The complaint in the 5th ground of appeal is about the exact point of impact of the collision.

6. The complaint in the 6th ground of appeal is in connection with some alleged discrepancies in the testimony of 2 P. W. 7 & 8. The complaints in grounds 7 and 8 of the appellant's grounds of appeal are really on an attack of the findings of fact of the learned trial judge which findings were upheld by the Court of Appeal.

DECISION/HELD:

In the final analysis, the Supreme Court dismissed the appeal in its entirety and affirmed the conviction and sentence as imposed by the trial Court and affirmed that of the Court of Appeal.