

J A M A I C A

IN THE COURT OF APPEAL

R.M. COURTS CRIMINAL APPEAL No. 26/66

BEFORE: The Hon. Mr. Justice Lewis, Presiding
The Hon. Mr. Justice Henriques
The Hon. Mr. Justice Moody

R. vs V E R N A P E S S O A

Mr. M. Wright for the Crown

Messrs. R.N.A. Henriques and A. Campbell appeared for the
appellant

30th March, 1966

MOODY, J.A.,

The appellant was convicted on the 13th December, 1965, on an Information, contrary to Section 31, Sub-section 1 of Chapter 346, for failing to give her name and address when requested to do so by a constable following an allegation of careless driving.

The prosecution's case was that, constable Harry Perkins was on the 22nd of October at about 3.45 in the afternoon riding his motor cycle north along Slipe Road in St. Andrew. He was in private clothes, he was not in uniform. He says as he came abreast of Lewars Crescent and about to cross over a car driven by the appellant suddenly emerged from Lewars Crescent, so suddenly that in order to avoid a collision, he had to make a sudden swerve to his right and apply his brakes. Shortly after this, he said, the line of traffic proceeded north through the point-duty spot at Cross Roads and continued up the Half-Way-Tree Road. He followed this vehicle. He never lost sight of the driver. He saw the driver at the time, and he said as he went on he realised that he was in plain clothes and enlisted the service of another constable,

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constable Scott who was in uniform, and whom he passed as he followed this vehicle. When he called to Scott, Scott mounted his vehicle and both of them proceeded to just above the traffic lights at Half-Way-Tree Road and Oxford Road. Constable Scott overtook this vehicle and signalled it to stop. He says he Perkins then went up to the driver of this vehicle. There was another person sitting beside her, and when he got up to her he said, "I am Constable Perkins. I am going to prosecute you for careless driving when you nearly hit me off my cycle. May I have your driver's licence and your name and address"? He says the appellant did not answer. He said he repeated this request two or three times and finally told her that if she did not give the name and address he would arrest her. She refused to give her name and address and he said, "I am arresting you for careless driving and failing to give your name and address on my request.

Shortly after this a police vehicle arrived and she was taken to the Half-Way-Tree Police Station where she was charged with careless driving and failing to give her name and address.

In her defence, the appellant said that no such thing happened as the constable alleged, and that she never refused to give her name and address. In fact, she had taken out her driver's licence and the constable could have seen her name and address and could have verified it that she did in fact say her name was Verna Pessoa, and that the constable had said he did not believe her.

At the trial, learned Counsel for the appellant made a number of submissions to the learned trial judge and substantially urged the question, that the constable ought

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not to have been believed on the evidence.

The grounds of appeal that have been argued before us were, that the learned trial judge of the Traffic Court misdirected himself in finding the defendant guilty under Section 31, Sub-section 1 of Chapter 346, and urged that there was no duty in law to give one's name and address to any person unless there be reasonable ground for requiring it. Learned Counsel for the appellant specifically formulated his submissions saying that this Section does not require a person to give the name and address unless the person requesting the same has reasonable ground for so doing, and this reasonable ground must be based on seeing what he reasonably believes to be an offence under the law to have been committed.

An analysis of the facts in this case and of the judge's finding, it appears that there was no reasonable ground for requiring the appellant to give her name and address, and he further submitted that because the constable's allegation related to one specific act which would in itself been an act of dangerous, or careless driving, the Magistrate having acquitted the appellant on a charge of careless driving it is implicit in the verdict that the Magistrate rejected that the appellant made the alleged manoeuvre because of the peculiar facts of this case. If this manoeuvre was not made as a finding of fact there exists no reasonable ground on which the request could be based.

We are unable to agree with the submissions made by learned Counsel for the appellant, in as much as the record discloses that at the close of the case for the prosecution, the learned Magistrate ruled that there was a prime facie case made out and called for an answer from the appellant.

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The appellant did in fact give evidence, and this Court is unable to say in the absence of any specific statement from the learned trial Magistrate that his reasons were for dismissing the case of careless driving. In our view, his reasons could have been other than the fact that he came to the conclusion that the constable was untruthful.

In the circumstances, it is our view, that there was an allegation made by this constable, and that allegation constituted a reasonable ground for requesting the name and address of the driver of this vehicle. The appeal is accordingly dismissed and the conviction affirmed.