

IN THE HIGH COURT OF LESOTHO

In the Appeal of :

SESHOPHE LEROTHOLI

Appellant

v

R E X

Respondent

J U D G M E N T

Delivered by Hon. Mr. Justice F.X. Rooney
on the 12th day of July, 1982.

Mr. Monaphathi for the Appellant
Mr. Kabatsi for the Crown.

The appellant was charged with a contravention of Section 90 (1) of the Road Traffic and Transport Order 1970 in that on the 3rd August, 1982 while driving a motor vehicle he disobeyed a road traffic sign, to wit a robot which showed red. He pleaded not guilty but on the 13th August, 1981, he was convicted as charged by Mr. S.M. Ntsoele in the subordinate court for the Maseru District. The appellant was sentenced to pay a fine of M50.00. This appeal is directed against conviction only.

Of the four grounds of appeal raised, three may be disregarded as being of no substance whatsoever. The remaining ground of appeal reads :

"The evidence of the Crown is that when the traffic signs showed amber, the appellant had already passed over the white line over which one should not proceed when the signs show red".

The evidence for the Crown was that on the 3rd August, 1981, policewoman Letele was on duty at Moshoeshoe Road, Maseru next to what she described as the Seputaneng robots. She said that she saw the vehicle

2/ driven by the

driven by the appellant pass through the red robot at about 7.00 a.m. in the morning. When the appellant was asked by the witness why he had gone against the lights, he denied that he had done so.

In his cross-examination of this witness, the appellant suggested that she was drunk at the time and that she had bad eye-sight.

Policewoman Nomoroana (PW.2), who was also on duty at the intersection, stated that the appellant was driving last in a line of three vehicles; the first two crossed while the light showed amber but the appellant continued to drive when the light showed red. The appellant asked one significant question in cross-examination as follows :

Question : Supposing a vehicle enters the robots when the robots sign amber lights, and before he crosses, the robots sign red, is the vehicle not to cross?

Answer : The vehicle has to stop.

The appellant gave evidence as follows :

"After passing the stop-line and after crossing the pedestrian crossing, I noticed a vehicle which was stopped and a Traffic Police was talking to its driver, so I had to reduce my speed; the driver before me, myself and those who followed us also stopped for a short while. At that juncture the robot signalled amber. The Traffic Police who had stopped one vehicle indicated for the driver to park aside. The man before me and myself crossed then but the lights were then red and the policeman indicated to me to park aside, the one who followed me also crossed and he was shown to park aside as well."

In cross-examination, the appellant stated that he had already crossed the pedestrian crossing when the light turned amber. He repeated the allegation that policewoman Letele was drunk on duty. He called a witness 'Mapoloko Thabane who said :

3/ We entered

"We entered the robot while they signed green, and when we were on the pedestrian line, they signed amber, but as you drove slowly and before you went out of the robots they signed red".

Another witness for defence said:

"As there were many vehicles, we failed to cross at once and when we were about to move out of the robots, the robots signed red."

In view of the evidence to which I have referred, I do not understand why or how the appellant can challenge the correctness of his conviction. The excuse that the light was still showing amber at the time he commenced to drive across the pedestrian line is of no avail to the appellant

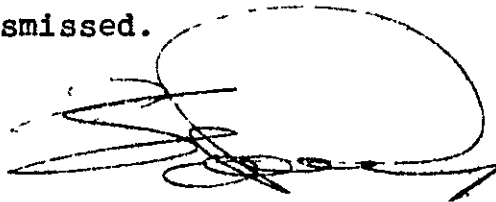
"The significance of a steady circular amber indication shall be that :

vehicular traffic facing such indication shall stop on the near side of the stop line and shall remain stationary until green alone is shown.

Provided that if the vehicle is so close to the stop line when amber appears after green that the stop cannot be made safely, the driver may proceed cautiously against such amber indication". (Road Traffic and Transport (Amendment) No.2) Regulations 1978 - Regulation 168 (i)).

There is no suggestion in the evidence given by anyone that the appellant was in the situation contemplated by the proviso. On the contrary, he said he was driving slowly.

This appeal is dismissed.



F.X. ROONEY

JUDGE

12th July, 1982.

Attorney for the Crown : The Law Office.