

R. v. GALATIA CHIDEYA.

CRIMINAL REVIEW CASE No. 215 OF 1941.

Dangerous driving—section is for protection of persons using the highway and not for the occupants of the car.

This case was brought under section 14 (1) (b) of the Motor Traffic Ordinance, Cap. 138, which has now been replaced by section 66 (1) of the Motor Traffic Ordinance, 1941. The principle of the decision is not affected by this replacement. In this case the accused was convicted by the Subordinate Court of driving dangerously but the only persons who were likely to be affected by the dangerous driving were the occupants of the vehicle which was being so driven. The High Court quashed the conviction on revision.

The present case is cited in *R. v. Apisoni Mupukuta* 5 N.R.L.R. 377 at page 380.

Robinson, A.C.J.: I regret but this conviction cannot stand. *Troughton v. Manning* (1905) 20 Cox 861, which has never been reversed, is in the way. It was a dangerous driving case and the only person put in peril was a passenger. KENNEDY, J. said, "I do not think that this was within the section, properly and fairly read, for my view of the intention of the section is to prevent misconduct in the management of a motor car towards the public who were outside it on the highway. The section was not meant for the protection of persons on the car itself, but was for the protection of persons using the highway. I do not think that the intention was to punish anyone who was reckless as regards passengers on the car."

There is no doubt that that is good law, but whether, under modern conditions, it is good sense, I rather doubt. However, I feel bound by it and have no option but to quash the conviction and order the fine to be refunded.