

**ROYAL COURT**  
(Samedi Division)

5th November, 1993

147.

**Before:** The Bailiff, and  
Jurats Myles and Herbert

---

**The Attorney General**

- v -

**Kosangas (Jersey) Limited**

---

Infraction of Article 21(1)(a) of the Health and Safety at Work (Jersey) Law, 1989:  
failing to discharge a duty to which the company was subject by virtue Article 5(1) of  
the Law: to conduct its undertaking in such a way as to ensure, so far as was  
reasonably practicable, that persons not in its employment who might be affected  
thereby were not thereby exposed to risks to their health and safety; in that it sold to  
another employer, namely Mr. Ronald Romeril, a trailer mounted tanker unit without  
making it known that the unit contained purge gas under pressure.

**PLEA:** Facts admitted.

**CONCLUSIONS:** Fine of £8,000, with £200 costs.

**SENTENCE:** Fine of £5,000, with £200 costs.

---

**C.E. Whelan, Esq., Crown Advocate.**  
**Advocate P. de C. Mourant for the Defendant Company.**

---

**JUDGMENT**

**THE BAILIFF:** The Law is clear in cases of this nature. There is a  
duty laid upon persons who deal in matters like this to make sure

that the material or equipment is as safe as reasonably practicable.

It would have been possible to avoid this unhappy accident which might have had the most serious consequences - even more than it actually did have - had, as you said, Mr. Mourant, the Defendant had made it clear to Romerils that the tanker had not been ventilated.

It is an absolute duty; contributory negligence has no part in a criminal prosecution of this nature.

But having said that, and taking into account particularly the good record, one might even say the impeccable record of the Defendant Company, we have come to the conclusion that the proper fine is one of £5,000 and accordingly your client is so fined, together with £200 costs.

No Authorities