

IN THE DISTRICT COURT OF NAURU  
Criminal Jurisdiction  
Criminal Case No. 1524 of 1976

THE REPUBLIC

vs.

BRIAR ROSE REWERU

CHARGE:

1. Offensive behaviour: C/S 5(d) of the Police Offences Ordinance, 1967.
2. Assault Occasioning bodily harm: C/S 339 of the Criminal Code Act, 1899 of Queensland - The First Schedule.
3. Being in a dwelling house without lawful excuse: C/S 424A(a) of the Criminal Code Act 1899 of Queensland - The First Schedule.

JUDGMENT:

The case for the prosecution is that the accused entered the dwelling house of the complainant Philomena Dick on the 2nd December, 1976 and assaulted her and was also offensive in her behaviour.

It is not disputed by the defence that the accused entered the house of the complainant on the 2nd December, 1976 at about 11.00 p.m. nor is it disputed that there was an incident between the accused and Philomena Dick and during that incident the accused bit her thumb.

According to Philomena Dick the accused, who is her husband's girlfriend, came to her house searching for him and she told her that he was drunk and was sleeping and that she could not wake him. In spite of this the accused went to her husband's room and knocked on the door. She went up to the accused and said, "Just because you are Briar my husband would listen to you." At that stage the accused pushed her and bit her thumb. She then tried to pull the accused down and there was a struggle. At that stage, her husband came out of the room and she told him the reason why they were fighting. The accused told him that she was lying and called her a bitch. Her husband asked her to go and wash her hands and she overheard the accused asking her husband for her pair of glasses.

The accused, in her evidence, has not denied the incident nor the fact that she bit the thumb of Philomena Dick. According to her she bit the finger in a reflex action and it was not intentional.

As regards the incident itself the version given by the accused is that the complainant started the incident by pushing her. She then grabbed her hair and there was a struggle. During the struggle the complainant fell down and her finger got into her mouth and she bit it. At that stage the door opened and the complainant's husband came out and separated them. The complainant got upset because her husband took her to a room.

It is quite clear from the evidence placed before this Court that the incident arose as a result of the accused going to the house of the complainant and not obeying the wishes of the complainant and leaving the house. Although the accused has stated that the complainant's husband had given her permission to come to the house at any time she wanted, the incident on this day could have been avoided if the accused, when confronted by the complainant and asked to leave, left the dwelling house and made some attempt to fetch the pair of glasses the following day instead of which the evidence reveals that the accused, contrary to the wishes of the complainant, was determined to meet the complainant's husband in order to get her pair of glasses. There is no denying the fact that even if the accused's statement is true that she had been given permission by the complainant's husband to enter his house at any time the complainant has a right as the lawfully wedded wife of the owner of the house, Mr. Dick, to ask the accused to leave.

I have examined the evidence very carefully and I see no reason to disbelieve the evidence of the complainant who had every right to stop the accused from seeing her husband on the night in question. The behaviour of the accused, apart from the act of assault was offensive. I, therefore, reject the evidence of the accused as to her version of the incident. I am unable to accept the evidence that she bit the thumb in reflex action and that it was not intentional. On the evidence the act of the accused in entering the dwelling house cannot be said to be one without lawful excuse as she has had permission from the complainant's husband to enter the house at any time. I, therefore, find the accused not guilty on Count 3 and hold that the prosecution has proved its case beyond reasonable doubt and find him guilty on Counts 1 and 2 and I convict her.

14th January, 1976

R. L. DE SILVA  
Resident Magistrate