IN THE DISTRICT COURT OF NAURU

Criminal Jurisdiction

Criminal Case No. 401 of 1976

THE REPUBLIC

vs.

MODE NENEIYA

CHARGE:

1. Offensive behaviour in a dwelling house. Contrary to section 5(d) of the Police Offences Ordinance, 1967.

JUDGMENT:

The accused is charged for offensive behaviour in a dwelling place.

It is in evidence that police assistance was sought by Mr. Neneiya on two occasions on the day in question. Sgt. Moses has stated in his evidence that he redeived a call from Mr. Neneiya's place in Yaren at about 10.00 p.m. He also received a message from the same place at about 7.00 p.m. Mr. Neneiya, on both occasions, had stated that the accused was hitting his wife and child. He went to the house and found the accused and his wife in the kitchen. He took the accused into custody and from his observations he came to the conclusion that the accused was under the influence and he detained the accused for offensive behaviour.

According to the wife of the accused, witness Viven, the accused was drinking at about 10.00 p.m. when his mother came and there was trouble. His mother was drunk. The accused tried to hit her when his mother spoke to him.

According to the mother of the accused she hit the accused because the accused was arguing with his mother-in-law and pushing her head. Then the accused turned to his wife and she was asked why she was protecting his wife.

Mr. Aroi has submitted that there is no evidence that anyone was offended and that Mr. Neneiya is the best person to speak to this fact. The entire prosecution evidence discloses a husband and wife quarrel.

I have examined the prosecution evidence very carefully and I am unable to accept Mr. Aroi's submission that

it was purely a husband and wife quarrel. It had gone beyond that and included the mother of the accused and his mother-in-law.

Behaviour, to be "offensive", must be such as is calculated to wound the feeling, arouse anger or resentment, or disgust or outrage in the mind of a reasonable person.

The cumulative effect of the evidence placed before this Court by the prosecution leads to the irresistible conclusion which, in my opinion, any reasonable person would have come to that the accused's behaviour on that day in question was offensive. It is not necessary for the prosecution to call witnesses to state from the witness box that they were offended by the behaviour of the accused. It is sufficient if on the entirety of the facts the Court could reasonably draw the inference and come to the conclusion that the conduct of the accused was offensive. In this case the mere fact that there were two calls to the police station for assistance clearly reveals that the people in the house were offended or resented the behaviour of the accused.

I accept the evidence of the prosecution witnesses as they corroborate each other on material particulars. I, therefore, hold that the prosecution has proved its case beyond all reasonable doubt and I find the accused guilty and I convict him.

4th June, 1976.

R. L. DE SILVA
Resident Magistrate