

IN THE DISTRICT COURT OF NAURU  
Criminal Jurisdiction  
Criminal Case No. 450 of 1976

THE REPUBLIC

vs.

MAINA DETABENE

CHARGE:

1. Being in a dwelling house without lawful excuse. C/S. 424A(a) of the Criminal Code Act, 1899 of Queensland - The First Schedule.
2. Common assault. C/S. 335 of the Criminal Code Act, 1899 of Queensland - The First Schedule.

JUDGMENT:

The accused is charged for being in a dwelling house without lawful excuse and unlawfully assaulting one Otto Bamæde.

The prosecution has led the evidence of the complainant who has stated in his evidence that on the 5th of April, 1976 at about 1.00 a.m. when he was sleeping in his room at his home the accused came into his room, woke him up, and called him to go outside. When he went outside the accused said, "Why are you a tough guy?" The accused aimed a blow at his head with a twister but it landed on his elbow when he tried to defend himself. He does not know the reason why the accused hit him. Two days before this incident, he had a fight with David Jones and some others at the loudspeakers competition but he did not fight with the accused.

The next prosecution witness, Vivien Neneiya, has stated that a car stopped at the porch and the lights were switched off and she heard someone moving inside the house. When she went outside her room she saw Otto running outside the house. Otto was with the accused. She saw the accused and his friends get into the car and drive away.

The accused has given evidence. He did not deny the assault on the day in question nor has he denied having been unlawfully in the house. He only referred to an incident two days earlier in which Otto hit him which, in my opinion, has no bearing on the facts of this case.

I accept the evidence of the complainant and witness Vivien and I hold that the prosecution has proved its case beyond all reasonable doubt. I find the accused guilty on counts 1 and 2 and I convict him.

18th June, 1976.

R. L. DE SILVA  
Resident Magistrate