

IN THE DISTRICT COURT OF NAURU

Criminal Jurisdiction

Criminal Case No. 437 of 1976

THE REPUBLIC

vs.

ANSLEM GARSIA

**CHARGE:**

1. Offensive behaviour about a dwelling house. C/S. 5(d) of the Police Offences Ordinance 1967.
2. Indecent behaviour. C/S. 5(a) of the Police Offences Ordinance 1967.

**JUDGMENT:**

The case for the prosecution is that on the 31st May, 1976 the accused went to the house of the complainant Togoran and behaved in a manner that was offensive and indecent.

The complainant Togoran, in his evidence, has stated that the accused entered his house and chased away Gina and Mrs. Menu and uttered swear words. The accused also urinated outside his house which was seen by Gina and Mrs. Menu. At the time the accused is alleged to have done these acts, they were having food sitting on the pinnacle side of the house. When the accused urinated he was facing them.

The accused, in his evidence, has admitted urinating but he has taken the position that he went to the house to go to the toilet but as the toilet was locked, he came out to go to the bush <sup>and</sup> but he could not control himself and had to relieve himself where he was. He has also admitted that he was facing the bush and would have been facing the complainant and others as they were under a tree on the bush side of the house. The accused has not denied that he uttered swear words when he walked into the house of the complainant.

I am satisfied on the evidence given by the complainant that the behaviour of the accused in walking into the house uttering swear words and chasing away Gina and Mrs. Menu, which he has not denied, amounts to offensive behaviour. As regards the act of indecent behaviour the accused knew that he was facing the people outside when he relieved himself. He could

have easily avoided facing them by turning the other way about if as he says he was unable to control himself. I have, therefore, come to the conclusion that the accused did not take any steps to avoid being seen by the people outside. Under these circumstances it could safely be inferred that the accused had no intention of not being seen and deliberately relieved himself in full view of the people outside.

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

The cumulative effect of the entirety of the evidence placed before this Court is, in my view, sufficient to arouse disgust or outrage in the mind of any reasonable person. I accept the evidence of the complainant and reject the evidence of the accused as being unworthy of credit.

I, therefore, hold that the prosecution has proved its case beyond all reasonable doubt and I find the accused guilty and convict him of Counts 1 and 2.

13th July, 1976.

R. L. DE SILVA  
Resident Magistrate