

IN THE DISTRICT COURT OF NAURU

Criminal Jurisdiction

Criminal Case No. 499 of 1976

THE REPUBLIC

vs.

**GARCIA ANSLEM**

Charge:

1. Offensive behaviour. C/S. 5(d) of the Police Offences Ordinance, 1967.

JUDGMENT:

The case for the prosecution is that the accused, on the 13th June, 1976 behaved offensively to Mr. and Mrs. Kedwedamenu.

The complainant has stated that at about 5.00 p.m. on the day in question when he was outside his house, the accused came and laid down on the cement foundation about 7 or 8 feet away. Then he got up and called out to Mr. and Mrs. Kedwedamenu who were outside the front porch and used swear words at them. The accused is a neighbor of his and related to him. He was offended by what the accused said. Then he reported the matter to the Police.

Mr. Aroi has submitted that the mere uttering of swear words between friends is not offensive behaviour and the prosecution should have brought the appropriate charge against the accused.

Apart from the fact that the accused had used swear words which had been tendered as Exhibit "A", there is nothing in the evidence of the complainant to indicate that the accused behaved in an offensive manner. It is quite clear that the accused did nothing else but utter swear words although the complainant has said that the accused appeared to be offensive. The use of swear words alone does not make the behaviour of an accused offensive. The use of swear words coupled with other acts which are not present in this case could make the behaviour of an accused offensive.

Section 5 of the Police Offences Ordinance, 1967 has 4 sub-headings under which a person can be charged. Section 5(d) deals with offensive behaviour which is the charge the accused is facing in this Court. Section 5(a) deals with using of obscene language within the hearing or view of any person in any road, street, thoroughfare or public place.

According to facts as revealed in the evidence, the accused should have been charged under Section 5(a) and not under Section 5(d) of the Police Offences Ordinance, 1967.

In view of this, I find the accused not guilty and acquit him.

13th July, 1976.

R. L. DE SILVA  
Resident Magistrate