IN THE DISTRICT COURT OF NAURU

Criminal Jurisdiction

Criminal Case No. 1213 of 1976

THE REPUBLIC

vs.

CATHERINE DABWADOUW, LOUISE BERNICKE, DORIA BILL, GLENDA D DUBE AND LIEBE BILL.

CHARGE:

1. Being in a dwelling house without lawful excuse; C/S 424A(a) of the Criminal Code of Queensland - The First Schedule. (ALL ACCUSED)

2. Offensive behaviour, C/S 5(d) of Police Offences Ordinance 1976 (LOUISE BERNICKE).

JUDGMENT:

The case for the prosecution is that on the 22nd September, 1976, the second accused, in the company of the other accused, went to the house of Mrs. Regina Dabana without lawful excuse. The first, third, fourth and fifth accused pleaded guilty to the charge of being in a dwelling house without lawful excuse and the evidence was led as against the second accused who entered a plea of not guilty.

Mrs. Dabana in her evidence has stated that she had not asked the accused to come that day but the second accused has been in the habit of coming to her house as she is her son's girlfriend. She has also stated that she did not ask the second accused to leave the house but only pulled her out of the house after the second accused threw a bottle at her daughter.

Witness Veronica, the daughter of Mrs. Dabana, in her evidence does not corroborate her mother. Her evidence is in conflict with that of her mother on a very important point namely, as to whether her mother did ask the second accused and the others to leave the house. The best person to speak to this fact is the mother who has stated that she did not ask the second accused to leave the house. Therefore, I am more inclined to accept the evidence of Mrs. Dabana that she did not at any stage ask the second accused to leave the house.

The fact that the second accused created some kind of trouble in the house is borne out by the fact that witness Veronica in her evidence has stated that the second accused picked up a bottle of medicine and threw it at her. As a result of this the mother tried to pull the second accused out of the house but she refused to go.

According to her evidence there is no doubt whatsoever that the second accused had the leave and licence of the Chief occupant of the house namely, Mrs. Dabana, to come to her house without an express invitation. And on the day in question, too, whatever motive the second accused may have had in going to the house with her friends it cannot be said that because she created an incident that she was in the house without lawful excuse. She is a person who in the past has gone to this particular house frequently and because on this occasion her behaviour was such that Mrs. Dabana and her daughter Veronica wanted her to leave does not, in my mind, make it an offence that come within section 424A(a) of the Criminal Code Act 1899 of Queensland. I, therefore, hold that the prosecution has not placed before the Court the necessary ingredients of the offence which would make the act of the second accused in going to the house of Mrs. Dabana one which would fall under section 424A(a) of the Criminal Code Act 1899 of Queensland. I, therefore, find the second accused not guilty on Count 1 and ;I acquit her.

4th November, 1976

R. L. DE SILVA
Resident Magistrate