

IN THE DISTRICT COURT OF NAURU

Criminal Jurisdiction

Criminal Case No. 130 of 1977

THE REPUBLIC

vs.

ALFRED IKA

CHARGE:

Using obscene language, contrary to section 5(a) of the Police Offences Ordinance, 1967.

JUDGMENT:

The case for the prosecution is that on the 31st of March, 1977 the accused, on being refused some medicine by the complainant Akibwib Arububum, uttered obscene words at him.

The complainant Arububum has stated in his evidence that on the day in question he was issuing medicine in the hospital at about 11.00 a.m. The accused requested some medicine from him and when he was told that he had to get a note from a doctor, the accused uttered two Nauruan words which the witness has written down and tendered as Ex. "A". According to the complainant the meaning could be the smell from the sexual organs. In his complaint to the police, he has stated that the accused used another word which, however, has the same meaning.

The prosecution has led the evidence of Michael Heama as an expert witness to testify to the meaning of the alleged words. This witness has 47 years experience as a teacher and according to him, the two words referred to in Ex. "A" means "vaginal odour". According to him these are obscene words and should not be used in public.

The accused has given evidence and has admitted using the words in question but takes up the position that he did not know the meaning of the words. According to him, these words are commonly used among his friends.

I am unable to accept the evidence of the accused that he did not know the meaning of these words if he had heard

them being used very often by his friends. If his friends use these words often, it could be a reflection of the type of company that the accused keeps. The fact remains that these words are obscene. Ignorance of the meaning of the words is no excuse. I, therefore, reject the evidence of the accused as being unworthy of credit and I am of the opinion that when he did use the words in the circumstances in which it was uttered, he knew that they had a meaning that was obscene.

I, therefore, hold that the prosecution has proved beyond all reasonable doubt that the words uttered by the accused are obscene and I find the accused guilty and convict him.

R. L. DE SILVA
Resident Magistrate

19th April, 1977