

IN THE DISTRICT COURT OF NAURU

Criminal Jurisdiction

Criminal Case No. 163 of 1977

RIMONE TOM

v.

ROY DEGOREGORE

O R D E R :

After my order was delivered Mr. Lloyd, learned counsel for the defendant, moved for a short adjournment to discuss certain matters with Mr. Ramrakha, learned counsel for the prosecution. The Court adjourned for 15 minutes and on resuming, Mr. Lloyd referred to section 118(2) and section 120 of the Criminal Procedure Act 1972 and moved for costs. He put forward a number of reasons as to why the Court should award fairly substantial costs and suggested the sum of \$7,500.

Mr. Ramrakha took up a rather technical objection on the ground that the Court arose after judgment was delivered and that the matter of costs could not be heard once the Court had resumed after delivering judgment. His submission was that it should have been dealt with before the Court adjourned.


I have considered this objection which, to my mind, is purely a technical objection. The impression the Court had when an adjournment was moved by Mr. Lloyd was that counsel on both sides wished to discuss the question of costs in the case. I, therefore, overrule the objection made by Mr. Ramrakha.

I have given due consideration to the submissions made in order to arrive as to the quantum of costs that should be awarded in this case. Section 118(2) has a proviso which states that an order for costs shall not be made unless the Court considers that the prosecution had no reasonable grounds for bringing the proceedings or has unreasonably prolonged them. On the evidence that was placed before me I am satisfied that there were no reasonable grounds for bringing these proceedings and, therefore, the Court is entitled to award costs.

Section 120, however, deals with the award of compensation for the trouble and expense to which the accused had been put by reason of the charge, only if the Court is of the opinion that the charge was frivolous or vexatious. The

evidence in this case, to my mind, does not reveal that the charges were either frivolous or vexatious and, therefore, I do not intend awarding any sum as compensation under this section.

I am of the opinion that a sum of \$3,000 would be adequate costs in this case and I accordingly make order that the complainant Rimone Tom do pay to the defendant Roy Degoregore the sum of \$3,000 as costs of this action.

  
R. L. DE SILVA  
Resident Magistrate

22nd July, 1977.