

IN THE DISTRICT COURT OF NAURU

Criminal Jurisdiction

Criminal Case No. 9 of 1977

THE REPUBLIC

vs.

RUPERT VINCENT ANIWIN

CHARGE:

1. Offensive behaviour: C/S 5(a) of the Police Offences Ordinance, 1967.
2. Assaulting a Police Officer while acting in the execution of his duty: C/S 340(2) of the Criminal Code Act, 1899 of Queensland - The First Schedule.

JUDGMENT:

The case for the prosecution is that the accused, on the 9th January, 1977, unlawfully assaulted Paul Fritz, a police officer, and was also guilty of offensive behaviour in a public place.

The prosecution has led the evidence of Police Constable Paul Fritz and Police Cadet Daniel Akubor, who were in the police car at the time of the incident. Paul Fritz has, in his evidence, stated that he was on police patrol at about 4.30 a.m. on 9th January, 1977, and when they were about to leave the area around the Teashop, he heard words uttered in a loud tone at them. The words were in Nauruan and it meant, "You two are bastards." He then stopped the car and went out to the accused, who was sitting with some others inside the Teashop. He approached the accused and asked him what he meant by those words. The accused then stood up and said, "Your two faces look like arses." Saying this, he grabbed his shirt and ripped it off. The buttons on his shirt were torn off. He then used reasonable force to arrest the accused, who was drunk.

The evidence of witness Daniel corroborates that of witness Paul Fritz on all material particulars. This witness, too, has stated that the words used in Nauruan meant, "You two are bastards." He has also stated that the accused ripped open the shirt of witness Paul Fritz and he saw this whilst seated in the car.

The accused has given evidence and according to him the words he shouted at the two police officers were not offensive. The witness has written down the Nauruan words which has been marked as Exh. "B" and according to him, the meaning is "bad odour". The translation of this word according to the prosecution has also been written down and it differs from the defence meaning of the word. Whatever may be the meaning of the word the Court cannot arrive at a definite conclusion due to the different interpretations given to the Nauruan word. The meaning according to the accused itself, in my opinion, is sufficiently offensive and I am unable to accept his evidence on this point that he does not mind anyone using that word on him. Apart from this there is the evidence of the two prosecution witness who both agree that the word used in Nauruan meant, "You two are bastards."

The accused has gone on further and stated that witness Fritz approached him and wanted him to accompany him to the police station because he swore at him. When he replied that he said it in fun, witness Fritz grabbed him by the hand and pulled him up. He was pushed in the back and at that stage he grabbed the witness's shirt and he was clinging on to his shirt when he fell and because of this the shirt was torn. According to him, the police officers were uttering untruths in Court.

I have examined the evidence very carefully and I have come to the conclusion that this entire incident arose as a result of the accused uttering a Nauruan word at the police officers.

The evidence of Const. Paul Fritz that the accused ripped his shirt open is corroborated by that of Police Cadet Daniel. In view of this corroboration, I have no reason to disbelieve either of the prosecution witnesses as to the assault. I reject the evidence given by the accused and I accept the evidence of the two prosecution witnesses.

The prosecution has placed before this Court sufficient and good evidence to establish that the behaviour of the accused was offensive and that he committed an act of assault on witness Paul Fritz. I, therefore, hold that the prosecution has proved its case beyond all reasonable doubt and I find the accused guilty on both counts and I convict him.

18th January, 1977.

R. L. DE SILVA
Resident Magistrate