

IN THE DISTRICT COURT OF NAURU

Criminal Jurisdiction

Criminal Case No. 192 of 1978

THE REPUBLIC

v.

MADAM NGAI SAU-CHUN

- CHARGE: 1. Official Corruption: C/S 87 (2) of the Criminal Code Act 1899 of Queensland (Adopted) - The First Schedule
2. Trading without a Licence: C/S 10 of the Licences Ordinance 1922-1955.

JUDGMENT:

The case for the Prosecution is that the accused was detected on the 23rd December 1977 in the act of selling a packet of cigarettes to a customer and thereafter gave Constable Iwuigia \$40.00 to induce him not to report the incident.

It is in evidence that the accused has no Trading Licence. The Prosecution has led the evidence of a Gilbertese the alleged buyer and Constable Iwuigia as to the actual act of selling. The Gilbertese, witness Itaaka has stated that he asked the accused whether she had Alpine cigarettes and gave her \$1.00. The accused took the money and went inside. Before he got the cigarettes the Police arrived on the scene.

Constable Iwuigia has stated that he was about 6 feet behind witness Itaaka and he saw him give a dollar note to the accused. The accused did not give the packet of cigarettes to the Gilbertese as she noticed him. He questioned the

Gilbertese who informed him that he had given money for cigarettes and was waiting for it. Later, with the permission of the accused he went inside her house and removed Exhibit P2 - P21. During this time the accused handed him \$20.00 and asked him not to arrest her. When he refused, she put more money into his pocket. The total amount was \$40.00.

Constable Iwuigia observed that goods were stacked inside the house like in a shop.

The accused in her evidence has stated that when the Gilbertese gave her a dollar note she threw it out of the window and shut the louvres. Constable Iwuigia did not observe this. Apart from this, if the accused was not selling cigarettes the most natural conduct on her part would have been to return the money to the person who gave it, explaining that she was not selling cigarettes. I am unable to accept the evidence of the accused on this point. I accept the evidence of Constable Iwuigia that he saw the accused take the money. I was more than impressed by the demeanour of this witness. It is not often that this Court has the good fortune to have a Police Officer of the calibre of Constable Iwuigia. He was certain of what he said in evidence; understood the questions put to him whether in examination-in-chief or in cross-examination and in my opinion was testifying accurately and truthfully as to the sequence of events on the day in question. I have no hesitation therefore, although the accused has denied giving him \$40.00, in accepting his evidence that the accused did give him \$40.00.

The accused has stated that the Exhibits produced in Court were purchased for her own consumption and that of her family as it was the X'mas season. It is in evidence that her family unit consists of 3 people, herself, her husband and her son aged 12 years. It is inconceivable that a husband and wife earning between them \$330 a month should have purchased so many cases of cigarettes of different brands and cartons of boxes of matches costing about \$500, apart from that boxes of chewing gum and various other food-stuff and cartons of soft drinks. The Court is entitled to draw the conclusion that

this large quantity of goods were not kept for private consumption but for sale. This is the only reasonable conclusion that this Court could draw.

The mere act of taking the dollar note from witness Itaaka in response to a request for cigarettes is in my opinion an act of trading.

The act of the accused in giving \$40.00 to Constable Iwuigia, a Police Officer and thereby asking him not to report her is in my opinion an inducement to get the Police Officer, who is a public officer, not to take appropriate action in his official capacity. Therefore the accused acted corruptly in giving the Police Officer \$40.00 and this was done deliberately and intentionally so that she would not be arrested. I am therefore satisfied that the Prosecution has proved all the ingredients of the offence of official corruption.

I therefore hold that the Prosecution has proved beyond all reasonable doubt counts 1 and 2 and I find the accused guilty on both counts and convict her.

R.L. DE SILVA
Resident Magistrate