

IN THE DISTRICT COURT OF NAURU  
(Criminal Jurisdiction)

CRIMINAL CASE NO. 45 of 2015

BETWEEN:

**THE REPUBLIC OF NAURU**  
Complainant

AND:

**JACKSON MAU**  
Defendant

*Mr. Lacanivalu for the Republic*  
*Defendant in person*

*Date of hearing: 20 April 2016*  
*Date of Sentence: 25 April 2016*

Sentence

**INTRODUCTION**

1. The defendant pleaded guilty to 1 count of entering a dwelling house with intent to commit a crime contrary to section 420 of the Criminal Code 1899 and Stealing contrary to section 398 of the Criminal Code 1899. Section 240 of the Criminal Code 1899 reads:

"Any person who enters or is in the dwelling house of another with intent to commit a crime therein, is guilty of a crime, and is liable to imprisonment with hard labour for seven years.

If the offence is committed in the night, the offender is liable to imprisonment with hard labour for fourteen years."<sup>1</sup>

2. The defendant has also pleaded guilty to 1 count of stealing contrary to section 398 of the Criminal Code 1899. Section 398 of the Criminal Code 1899 reads:

"Any person who steals anything that is capable of being stolen is guilty of an a crime, and is liable, if no

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<sup>1</sup> Section 420 of the Criminal Code 1899

other punishment is provided, to imprisonment with hard labour for three years"<sup>2</sup>

3. Neither the prosecution nor the defence has addressed me on this issue. But the terms of section 4(2) of the Criminal Procedure Act 1972 is very clear in terms of the jurisdiction of the District Court. Section 4(2) of the Criminal Procedure Act 1972 reads:

"Subject to the provisions of any written law relating to children or young persons and to any other provisions of this Act, any offence under the Criminal Code 1899 may be tried by the District Court if it is punishable with imprisonment for not more than ten years"<sup>3</sup>

4. With regard to the offence of entering a dwelling house with intent to commit a crime contrary to section 420 of the Criminal Code, the provisions of section 420 of the Criminal Code 1899 is very clear in that if the offence is committed in the night, then the maximum penalty is that of 14 years imprisonment. In the agreed facts submitted to the court, it is agreed that the offence was committed by the defendant in the night and so the maximum penalty would be fourteen years imprisonment. The District Court would by virtue of the operation of section 4(2) of the Criminal Code 1899 would have no jurisdiction to try the defendant. And because the District Court would have no jurisdiction to try the defendant, the District Court would have no power to take the defendant's plea.
5. The District Court has jurisdiction to deal with the charge of Stealing contrary to section 398 of the Criminal Code 1899 to which the defendant has already pleaded guilty.
6. The agreed facts presented to the Court show that both offences were committed at the same time and they both fall within the same transaction rule.
7. A just order to make in the circumstances of this case is to vacate the plea of guilty entered in respect of the charge of entering a dwelling house contrary to section 420 of the Criminal Code 1899 and conduct a preliminary enquiry under Part VII of the Criminal Code 1899. For the offence of stealing to which the defendant had pleaded

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<sup>2</sup> Section 398 of the Criminal Code 1899

<sup>3</sup> Section 4(2) of the Criminal Code 1899

guilty, the defendant will be committed for sentence before the Supreme Court pursuant to section 160 of the Criminal Procedure Act 1972 as he is entitled to be dealt with according to law by one court in respect of both offences.

Dated this 25 day of April 2016



Emma Garo  
Resident Magistrate