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IN THE SUPREME COURT)
OF THE TERRITORY OF)
PAPUA AND NEW GUINEA)

CORAM : FROST J.

1965.

REGINA v. KINDE-KIANGORE of MAMUNGAKA, and
GARAPA-GUNDE of FINEKU.

J U D G M E N T .

The accused men have been charged with the attempted murder of one, Arki, a Finschhafen man living at Goroka, and each has pleaded guilty.

The accused men, both Highlanders of the Karipa people, come from a village about 12 miles from Goroka. They are subsistence farmers who have spent their lives in the village tending gardens and renewing houses. Neither has had any schooling. Garapa did leave home for a year when he worked as a labourer at Karkar Island. Kinde has never worked away from his village. There is a Lutheran Mission in the village, and the people have a Local Government Council. Administration influence has been strong for many years. Both come from families not without influence in their village affairs. Their communal life is strong; should one of them be killed, the age-old custom of the people still influences them that one of the killer's folk should also be killed as a pay back.

Now, as it happened, in May of this year one of the Karipa people, who was living on the coast at Lae, became involved there with a Finschhafen man and was killed. The assailant came before the Supreme Court at Lae and was convicted of manslaughter, for which he was sentenced to two years' imprisonment.

The body of the dead Karipa man was brought back to his village in the Highlands for burial and the two accused, who were related to him, Garapa being his uncle, attended the burial. An Administration officer and councillors all warned the villagers that the trouble was to be forgotten, there was to be no pay back, and the villagers decided to heed the warning.

Soon afterwards an unfortunate incident occurred. Whilst drinking in an hotel in Goroka, a Sepik man spoke to Garapa and said, "Man bilong Finschhafen cutim yupela olsem pik. Yupela no bakim. You no man. You olsem meri."

The accused brooded for several months over this taunt to their manhood, and decided to kill a Finschhafen man. Each armed himself with a new knife for the occasion. On the afternoon of 6th August, 1965, they set out for Goroka to effect their purpose. They had reached North Goroka on the outskirts of the town, which is a very well settled area. Arki, who is an evangelist at the Lutheran Mission, happened to be walking along the road to the Lutheran Church. He had been visiting his wife who was lying ill in the hospital, and he had his baby daughter with him. Now Arki comes from Finschhafen, and all the accused knew of him was that he was a Finschhafen man. However, I am inclined to think he was the man they had in mind to kill.

They took up positions, one following and the other in front of Arki, and then they attacked him. Kinde cut him with his knife on the front of the neck; Garapa cut him on the arm. He broke away and ran up the drive to Pastor Goldhardt's house. The accused men were very determined. They were not deterred by the town surroundings or the presence of the Mission servants. Kinde pursued Arki past the kitchen boy and the pastor through the kitchen and right into the living-room, where the pastor's wife was sitting at the telephone. Kinde continued to slash Arki with the bush knife. The pastor picked up a chair and swung it at Kinde, but Kinde struck Arki a heavy blow with his knife on the head, and then the pastor's blow came down on Kinde's head. He had to strike him several more times on the head before Kinde broke away and ran out of the house.

Garapa apparently came up to the house but did not enter it. The men ran away but were captured by a policeman who was on duty in the immediate vicinity.

As a result of this attack the innocent Arki suffered cuts to the neck and arm and the heavy blow on the head caused a linear fracture over part of its length. But fortunately he will suffer no permanent disability.

If the pastor had not courageously intervened, the accused would have effected their purpose and killed Arki.

This case illustrates some of the difficult considerations arising in the administration of justice among the native people of this Territory. Despite over 20 years of Administration and Mission influence and the steady maintenance of law and order in this District, these men felt it a slur on their manhood if there should be no pay back. Their kinsman was killed by a complete stranger in Lae, a long way distant by the sea, which most of the villagers had never seen, but their custom demanded vengeance. It was a barbarous custom because it could be satisfied by the death even of a man unknown to them and completely innocent of any association with the crime committed at Lae by the Finschhafen man, so long as the victim was a Finschhafen.

The taunt by the Sepik in the hotel was unfortunate, but the attempt on Arki's life being made months later, after specific warnings to the village people against a pay back, by both European and native authorities, and carried right through in the pastor's house, shows how strong a hold desire for vengeance had on the accused's minds. Each accused has stated that what he did made him feel better. According to Inspector Swanton, the deed would meet with the covert approval of the Karipa people.

I must thus take into account, in their favour, the still primitive outlook of the accused, and this deeply rooted desire for vengeance, and also that Arki fortunately escaped any disabling injury. But there are other considerations.

I must look to the victim, whom the accused knew had no connection with the crime at Lee. The Court must protect the innocent people of this Territory from such violent, senseless and unprovoked attacks. A law-abiding Finschhafen man must be free to walk unharmed along the roads in Goroka.

This attack, sprung on the public road in Goroka, one of the principal centres of the Territory, and continued in a terrifying manner after the accused burst into the pastor's house, in the presence of the pastor and his wife in their living room, was a most defiant breach of public order, and unless such attacks are dealt with severely, the whole fabric of our law and order will be threatened.

Finally I do not propose to take into account the sentence imposed for the crime at Lee. The circumstances of that crime, of which I am unaware, are totally irrelevant to this case.

Upon the balance of these considerations, I have thought it proper to impose a sentence of five (5) years' imprisonment.