

IN THE SUPREME COURT
OF PAPUA NEW GUINEA }

CORAM: PRENTICE, SPJ.
Tuesday,
13th May, 1975.

TAGOLA BAKI v. HENRY MEURO
REU MOGU v. HENRY MEURO
NULI KASIR v. HENRY MEURO
DARIUS BASTARAI v. HENRY MEURO

Appeals 187, 188, 189, 190 of 1974 (N.G.)

1975
May 13
Rabaul
PRENTICE, SPJ.

These are four appeals from the Local Court at Talasea. By consent they were heard together at Rabaul. Each of the appellants was convicted of riotous behaviour and sentenced to three months' imprisonment. The convictions followed a village incident apparently triggered off by some abusive language offered to the wife of a senior officer of the Department of the Chief Minister and Development Administration - Mr. Lukas Waka, while the Waka family were on holidays in the Talasea (their home) district.

The appeals were made only on the ground of severity. The incident began with insulting language to the wife of Lukas Waka (Mr. Waka who is now District Commissioner at Mount Hagen). As appears from the statement of facts put before the learned Local Court magistrate Mr. White, and from the statements of the four appellants on their conviction; Mr. Waka took part in the incident referred to - indeed led a small party on what can only be described as a small punitive expedition. Violence was done by this party to the person who had behaved insultingly, and apparently to some of his wantoks.

Mr. Waka was charged subsequently, with the four appellants; but I am informed by Counsel that he pleaded not guilty and had his case remanded. On a later date he also was convicted, but merely admonished and discharged. To engage in such an attack, was clearly quite a deplorable piece of behaviour by an

official of Mr. Waka's standing; even though his wife had been insulted. It is clear that Mr. Waka must have played a most important role, almost certainly the leading role, in the riot. Three of the appellants asserted before the Local Court magistrate that Waka struck the first blow. This was not contraverted by the prosecution.

In the circumstances, I am satisfied that to allow the sentences against these four men to stand alongside Waka's escaping punishment at all (and subsequently achieving promotion), would result in such a disparity of sentencing as would offend the conscience of the Court, and create understandable antagonism in the appellants, such that a substantial miscarriage of justice would occur. (The situations where an appellate court would interfere to prevent such an eventuality were explained in Winugini Urugitaru and The Queen (1) where a decision of my own that a twice-convicted murderer, who had for his first sentence received six years' imprisonment, should be imprisoned for his life while his accomplices received only six years; was corrected to eliminate the resulting disparity, by reducing Winugini's sentence to twelve years six months).

I allow the appeals. I confirm the convictions in each case. I substitute a sentence of one month's imprisonment with hard labour on each appellant; which having been served, the appellants are not required to surrender themselves to custody.

(1) Unreported Full Court Judgment 72

Solicitor for the Respondent: B.W. Kidu Esq., Crown
Solicitor.

Solicitor for the Appellants: N.H. Pratt Esq., A/Public
Solicitor.