

REGINA V. RAY KEPANI

High Court of Solomon Islands
(Palmer ACJ)

Criminal Case No. 138 of 2000

Hearing: May 7, 2002

Ruling: May 8, 2002

F. Mwanasalua (Director of Public Prosecutions) for the Crown
Defendant (Ray Kepani) in person

Palmer ACJ: At the close of prosecution case, the Court is obliged to indicate whether there is a prima facie case, which would require the accused to be put to his defence. This is set out in Section 269(1) of the Criminal Procedure Code ("CPC"). If the court considers there is no evidence before it to show that the accused committed the offence, then a record of a finding of not guilty shall be entered and the accused acquitted. If there is evidence before the court that the accused committed the offence(s) for which he has been charged with, then he shall be informed of his rights and be given opportunity to put up his defence if any.

I am required at this point of time therefore to consider the evidence adduced by prosecution and to determine whether there is a prima facie case to put this accused to his defence.

The accused has been charged with three offences; (1) simple larceny, in layman's terms, stealing the sum of \$113,000-00, (2) forging an ANZ Bank cheque no. 604511 belonging to the National Census Office in the sum of \$68,000-00 and (3) forging another ANZ Bank cheque no. 604512 for \$45,000-00. The three offences are all inter-related. ANZ Bank cheques numbers 604511 and 604512 when added together amount to \$113,000-00, the amount alleged to have been stolen by the accused.

Prosecution's case has been quite simple and straightforward. Witnesses have been called from the Census Office to say that the cheques most likely were stolen from the Census Office on the night of 3rd November 1999 by this accused. Those two cheques were then cashed at the ANZ Bank by none other than this accused on the morning of 5th November 1999. The Bank Tellers from ANZ Bank identified him as the person who presented the cheques.

According to the evidence adduced in respect of count 1 therefore, that of simple larceny, I am satisfied there is prima facie evidence which if accepted by the court is sufficient to show that he committed this offence.

As to counts 2 and 3, the Prosecution case is based on circumstantial evidence; that the cheque could not have been forged by any one else other than this accused who cashed the cheque on 5th November 2001. Prosecution has adduced evidence, which showed that the signatures on the cheques were not those of the persons purported to have signed them, namely, Reuben Tovutovu and Selesa Alepio. Both persons confirmed in evidence before this court that whilst the signatures on cheque numbers 604511 and 604512 appear on cursory glance to be similar to their signatures, they did not belong to them, were different and not signed by them. Their signatures had been forged. The conclusion I anticipate Prosecution would like this court to make from all these is that the person who forged those documents will have to be someone familiar with those two witnesses signature or who had access to their signatures. The Prosecution I believe would like this court to believe that the evidence adduced pointed to no one else but the accused; that the cheques could not have been stolen and forged by anyone else other than the accused who cashed them on 5th November 1999. Prosecution seeks to show it seems that there is a nexus (a direct link) in the chain of events, which clearly implicate the accused and in the absence of any satisfactory explanation this court has no other alternative but to conclude that the forgery could not have been done by anyone else other than this accused.

Having considered carefully the evidence adduced I am satisfied there is also a prima facie case in respect of counts 2 and 3 and that the accused has a case to answer.

THE COURT.