

JOINT COURT OF THE NEW HEBRIDES

CONDOMINIUM

v.

JOHN JAMES NAUPA

JUDGMENT

The accused, JOHN JAMES NAUPA, was charged before the Joint Court with that on the 22nd day of January, 1970 at Vila he indecently assaulted one HIIDA MARY HIGHLAND. To this charge he pleaded Not Guilty.

Evidence was given by the complainant that on the night of the 22nd January, 1970 she was asleep in her quarters when she heard someone enter the building through a door which leads to the kitchen. She fell asleep again and, she said, about five minutes later she was awakened by someone shaking her. She was frightened and cried out, whereupon a voice said: "Don't be frightened. It is I, John Naupa . . ." or words to that effect.

The complainant indicated her displeasure and, she alleged, the accused said he wanted to sleep with her. On her refusal he went to the door, whereupon she sat on the side of her bed and endeavoured to get her frock, which was in a case underneath her bed, to put it on. She said the accused returned and pushed her back on the bed and tried to kiss her. She struggled and he left the room, and she went out by the window to the house of Inspector Kalsakau, to whom she told what had happened.

Inspector KALSAKAU was a witness in the case and he told the Court of the complainant awakening him about midnight and how he returned to her quarters. He there met the accused and in his presence asked the complainant to repeat what she had told him. The witness said that by reason of the interruptions of the accused, the complainant was unable to tell her story.

The accused told the Court that on the night in question he was very drunk, and on leaving a party close to the house in which the complainant lived - the quarters of his sister - he decided to go there to have his sister make him some coffee while he awaited the return of a motor car to bring himself and his companions back to Kawenu College. He said he entered the house by the front door and not the kitchen door, as alleged. Despite knowing these quarters quite well, he went into the complainant's room by mistake, thinking he was entering the room of his sister. Thinking he was awakening his sister, he awakened the complainant. The complainant screamed. He left the room immediately and was, again immediately, joined by his sister. At almost the same time his friend, PAUL BINIHII, who had been waiting outside, entered the house and switched on a light. The complainant estimated that the time that elapsed between her being awakened by the accused and leaving the house by the window, was approximately six minutes, whereas the accused, (and in this he was corroborated by the evidence of his sister and his friend) maintained that the interval was merely a matter of moments. PAUL BINIHII said he entered the house by the front door, through which he had seen the accused enter, immediately he heard the shout.

It has been the experience of Courts everywhere, that in cases such as the instant one, it is highly desirable

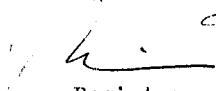
that the evidence of the complainant be corroborated. While there might be some slight corroboration in this case of the complainant's story, nevertheless there is a grave possibility of her being confused by reason of her having been recently awakened and being still in a half sleepy state.

In the circumstances the Court considers it would be highly dangerous to convict, and accordingly acquits the accused.

DATED at Vila, this thirteenth day of November, 1970 ./.


French Judge


British Judge


Registrar