

IN THE DISTRICT COURT OF NAURU

Criminal Jurisdiction

Criminal Case No. 213 of 1978

THE REPUBLIC

v.

LANZA DABWANA

CHARGE: Common Assault: C/S 335 of the Criminal Code Act, 1899 of Queensland - The First Schedule

JUDGMENT:

According to the evidence the two complainants and another started drinking at about 11.00 p.m. of the 24th February, 1978 outside Mrs. Iwugia's house. In the early hours of the 25th February, an incident occurred. The wife of the accused, whose house is about 25 feet away from the spot, made some remarks at the group that was drinking and approached Maria and assaulted her. Then Ebita intervened and a fight took place. After that the accused came and threw coconuts at them and punched Maria and Ebita.

According to witness Maria the wife of the accused came and fought with them and started pulling her hair and it was after that incident that the accused arrived on the scene. The accused threw a coconut at Ebita which hit her on the head.

The prosecution has also led the evidence of Mrs. Iwugia as to the incident and she corroborates the evidence of the two complainants on all material particulars.

In examining the evidence I am inclined to take the view that it could not have been for no reason at all that the wife of the accused came out of her house in the early hours of the morning and assaulted one of them. It may well be that from 11.00 p.m. till the early hours of

the following day, this group that was drinking was disturbing the neighbourhood. It is in evidence that there was a transistor with them and witness Maria has stated that when the wife of the accused said something she did not hear what was said and she then increased the volume of the transistor. Although there is no evidence before this Court that the neighbours were disturbed by this group of people drinking, on the evidence one can safely assume that may be the reason that provoked the wife of the accused to come out of the house.

But such a provocation, if at all, does not necessarily mean that the accused could take the law into his own hands. What is expected of any one in such a situation is to contact the Police and make a complaint. But the accused has thought otherwise and there is evidence that both complainants were assaulted by him. I, therefore, hold that the prosecution has proved its case beyond all reasonable doubt and I find the accused guilty and convict him.

R. L. DE SILVA
Resident Magistrate

3rd May, 1978