

IN THE SUPREME COURT OF NAURU

Criminal Jurisdiction

Criminal Appeal No. 21 of 1974

BENTIMAN RAABI G.E.2006

Appellant

vs.

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

10th January 1975 at 10 a.m.

In Court

Before Mr. Justice I. R. Thompson, Chief Justice

For the Appellant: Mr. B. Dowiyogo

For the Respondent: Mr. J. H. Berriman, Senior Legal Officer

Appellant present.

JUDGMENT

Offences of assaulting police officers are serious. The police have a difficult job to do. They have to go to the scene of quarrels and places where tempers are running high. If they are not to fall victim to those tempers, the public must know that assaults against the police will not be tolerated and will result in substantial sentences. The fact that an offence of assaulting a police officer is committed because the assailant's temper is inflamed by liquor rather than by any other cause is not an excuse and cannot be regarded as mitigating the offence. Generally no other sentence but one of imprisonment is warranted.

In this case, on the evidence - or rather the lack of it - before the District Court, the learned resident magistrate quite correctly imposed a sentence of imprisonment. On the facts before him he would have been wrong to do otherwise.

However, a considerable amount of evidence has been given in this Court by the appellant's superior officers in the Nauru Phosphate Corporation, which establishes that, before the offence, he was a man of exceptionally good character. He is the elected Island Representative of the people from the island of Kuria and as such has previously set a good example to

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his people and exercised control and influence over them so that they have been law-abiding and well behaved. This Court has heard evidence, which I accept, that the offence committed by the appellant was entirely out of character, possibly resulting in part from family worries.

In all the circumstances, on the basis of the evidence now before the Court, I consider that a sentence of imprisonment is not necessary to achieve the ends of justice and to serve the interests of society in this case.

The appellant receives a wage of \$58 per month. Any fine imposed must bear a reasonable relationship to that wage.

The appeal against the sentence imposed by the District Court is allowed. The sentence of three months' imprisonment with hard labour is set aside. In its place I impose a sentence of a fine of \$40. In default of payment of the fine the appellant is to serve three months' imprisonment with hard labour.

I. R. Thompson
CHIEF JUSTICE

10th January 1975