

IN THE SUPREME COURT OF NAURU

Criminal Jurisdiction

Criminal Appeal No. 18 of 1978

CLASSEN DABWADAOUW

Appellant

v v.

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

18th May, 1978 at 11.15 a.m.

In Court

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

For the Appellant: Mr. G. Star

For the Respondent: Mr. D.G. Lang

Appellant present.

Interpreter: Mr. Alec Harris, Clerk of Courts

Appeal against severity of sentence.

MR. STAR: The appellant is an apprentice fitter and turner with the N.P.C. He has a good future. He has two more years to complete the apprenticeship.

The house on which he was found belonged to his boss. The appellant did not commit any serious offence. He was in the vicinity of the house and went in because the owner was his boss. He went to ask for some drink. Before he could do so, the owner woke up and saw him standing nearby.

COURT: On the basis he had a lawful excuse for being there. Why did he plead guilty?

MR. STAR: He was not represented.

COURT: It appears desirable to give leave to appeal against conviction and to remit the case to the District Court for a plea of not guilty to be entered and the case decided on evidence.

MR. LANG: If he wishes to change his plea, I shall not stand in his way.

MR. STAR: I seek leave to appeal against conviction.

ORDER: Leave granted.

JUDGMENT:

The appellant was not represented in the District Court. Facts have been stated in this Court which may have constituted a reasonable excuse for his being in the house, or at least afforded some mitigation. They should have been placed before the District Court to ascertain whether or not they were as alleged and, if so, to evaluate.

The appeal against conviction is allowed. The conviction is quashed and the sentence set aside. The case is remitted to the District Court for the plea to be taken afresh and the hearing to proceed thereonwards on the basis of that plea.

I.R. THOMPSON  
Chief Justice

18/5/78