

IN THE HIGH COURT OF KIRIBATI)
CRIMINAL JURISDICTION)
HELD AT BETIO)
REPUBLIC OF KIRIBATI)

HIGH COURT CRIMINAL CASE No. 14 OF 2004

THE REPUBLIC
VS
KAITAAKE BUREAUA

FOR THE REPUBLIC:
FOR THE ACCUSED:

MS RURIA ITERAERA & MS PAULINE BEIATAU
MS TAOING TAOABA & MS J TROUP

DATE OF HEARING: 3 & 4 MAY 2004

SENTENCE

Kaitaake Bureaua: you have been found guilty of indecent assault which is a serious offence carrying a maximum penalty of five years' imprisonment. The victim is a married woman aged 34 and she is 12 years older than you as you are now aged 22.

The reasons for your conviction are contained in my judgment dated 18 May 2004 which I delivered yesterday.

Although you have denied having indecently assaulted Nei Beenika the complainant by licking her vagina more than once, I have accepted the evidence of the complainant and Avita Aviu (PW2) that you were the person who had indecently assaulted her during the early morning of 25 April 2003. And you yourself in your own caution statement had also admitted having had indecently assaulted the complainant.

I am told that you are 22 years old, single and unemployed and live a subsistence lifestyle by going out fishing from time to time in order to feed yourself and your brother's children. I am also told that you are waiting your chance to start work as a construction worker for Dai Nippon Construction.

In your favour is the fact that you have never been in trouble with the police before nor have ever had any previous convictions.

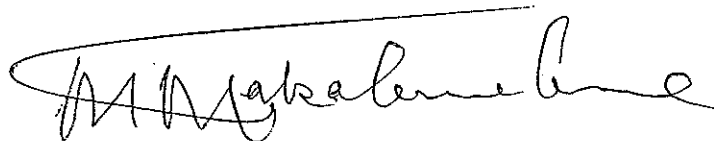
On the other hand there are aggravating factors of what you had done to the complainant which are against you. I agree with counsel for the prosecution Ms Pauline Beiatau that what you did to the complainant was very serious both at law and in the eyes of the Kiribati community. The complainant was a married woman and you have invaded her privacy whilst she was quietly sleeping away in the very security of her house with her relatives and also with her husband sleeping in another room nearby in the same house. And despite the presence of these people in the complainant's house and the resistance of complainant on the second occasion you still went ahead and indecently assaulted the complainant by licking her vagina not only once but more than once.

You said you were drunk that time but that could not help you at all as you were still capable of carrying out what you had planned to do that early morning of 25 April 2003.

Counsel for the prosecution and counsel for defence have referred me to a number of past and recent decisions of the High Court of Kiribati in which accused persons who had been convicted of indecent assault, and sentenced. Whilst these precedents might be useful as guidelines no two cases are exactly the same and each case must be decided on its own peculiar facts.

Taking into account therefore all the circumstances including the fact that the complainant is a married woman and the prevalence of this kind of sexual offence having been committed whilst the offender was usually under the influence of drink like as you were when you assaulted the complainant I consider that an appropriate sentence for you is a term of imprisonment of two years and four months commencing from the date when you were first put into custody.

Dated the 19th day of May 2004



THE HON MR JUSTICE MICHAEL N TAKABWEBWE
Judge