



HIGH COURT OF KIRIBATI

Criminal Case N° 2/2018

THE REPUBLIC

v

TAREMA TOTEAI

Teanneki Nemta for the Republic
Reiati Temaua for the accused

FILE NOTE

- [1] The accused was charged with 3 counts of rape, contrary to section 128 of the *Penal Code* (Cap.67).
- [2] The original information in this matter was filed on 19 December 2017. By that information the accused was charged with 2 counts of rape and 2 counts of defilement of a girl under the age of 13 years, contrary to section 134(1) of the *Penal Code*. The accused appeared before the Chief Justice on 24 April 2018 and pleaded not guilty to all charges. The matter was fixed for trial on 3 July.
- [3] On 3 July the Director of Public Prosecutions requested an adjournment of the trial as the complainant was in Nauru and unavailable. The trial was adjourned until 24 October, but the Chief Justice directed that steps were to be taken to ensure that the complainant would be available to testify on that date.
- [4] As the original information did not comply with section 70 of the *Criminal Procedure Code* (Cap.17), the Attorney-General filed the present information on 20 July.
- [5] On 24 October the Director of Public Prosecutions informed the Court that the complainant was still in Nauru, and they were still not ready for trial. The Chief Justice then transferred the matter to my list. The accused first appeared before me on 23 November. As the complainant had not yet returned from Nauru, the trial was fixed for this week. Counsel then appearing for the prosecution was informed that, if the complainant returned to Kiribati sooner than expected, an earlier trial date might be able to be arranged.

- [6] This morning the matter was called on for trial. Counsel for the prosecution requested yet another adjournment, on the ground that the complainant was still in Nauru. The application was resisted by counsel for the accused.
- [7] I am not prepared to adjourn the trial any further. The prosecution has known that the complainant was in Nauru since at least July last year. They had more than 6 months' notice of the latest trial date, and nothing was done to arrange for the complainant to come to Kiribati to testify. While I am extremely reluctant to see charges as serious as these left unresolved, it would be an abuse of the Court's process to reward the prosecution's ineptitude by postponing the trial again. I refused the application for an adjournment.
- [8] Counsel for the prosecution then informed the Court that she wished to enter a *nolle prosequi* on behalf of the Attorney-General under section 68(1) of the *Criminal Procedure Code*.
- [9] As the Republic intends that these proceedings not continue, the accused is accordingly discharged.
- [10] This file is to be closed.

Dated 4 June 2019.


Lambourne J
Judge of the High Court

