

IN THE DISTRICT COURT OF NAURU

Criminal Jurisdiction

Criminal Case No. 429 of 1976

THE REPUBLIC

vs.

MAINA DETABENE

CHARGE:

1. Damaging property. Contrary to Section 469 of the Criminal Code Act 1899 of Queensland (adopted).

JUDGMENT:

The accused is charged for damaging the windscreen of a Toyota motorcar the property of one Mrs. Carren Satto.

The prosecution has led the evidence of an eye witness Inspector Daniel, the acting Director of Police, who has stated in his evidence that on the morning in question he saw the accused with a boulder held high up in his hands and hitting the windscreen of a Toyota Sedan car. Before this incident he saw this particular car being driven into some loudspeakers. He approached the driver and removed him from the place and he noticed that the windscreen was cracked all over.

The accused told him that the driver of the car nearly killed him.

In cross-examination, witness Daniel has stated that he did not make a mistake about the identity of the accused. The defense did not call the accused or any witnesses.

Mr. Simon submitted that the accused lost his self-control as a result of the driver of the car damaging his Hi-Fi equipment and ran over one of his friends. The reaction was immediate and the entire incident occurred in a very short space of time and the accused could not have formed the intention to damage the vehicle.

I am unable to accept any of the submissions made by Mr. Simon. Intention, which is the state of mind, can never be proved as a fact. It can only be inferred from facts which have been proved. The word "wilfully" as used in the section means "intending to do injury". On the facts,

I have no hesitation whatsoever in coming to the conclusion that the immediate reaction of the accused in damaging the windscreen was in retaliation to the damage caused to the loudspeakers of the accused. The loss of self-control at that moment was not a defense in the circumstances but is only a mitigating circumstance. No one can take the law into his own hands and deal out punishment.

Therefore, I hold that the prosecution has proved its case beyond all reasonable doubt and that the accused, on the morning in question, caused wilfull and unlawfull damage to the windscreen of the Toyota Sedan motorcar. I, therefore, find him guilty and I convict him under section 469 of the Criminal Code Act of Queensland as adopted.

18th June, 1976.

R. L. DE SILVA
Resident Magistrate