

IN THE DISTRICT COURT OF NAURU

Criminal Jurisdiction

Criminal Case No. 488 of 1976

THE REPUBLIC

vs.

WILLIAM TEABIKE

CHARGE:

1. Stealing. C/S. 398 of the Criminal Code Act, 1899 of Queensland - The First Schedule.

JUDGMENT:

The prosecution has led the evidence of two witnesses namely, Kenan Dowedia and Croney Agico.

Witness Kenan was an unsatisfactory witness. He was evasive in his answers and I had the impression that he was not speaking the truth and was making a desperate attempt to conceal the correct version of the incident on the night in question. His evidence that the car in which they were driving stopped without petrol outside Alfred Dick's house and that the accused got down with a container, Exhibit "A", and went up to a white car and came back with petrol does not make sense in the light of his subsequent evidence that they left the car and walked back to the accused's house with the petrol. If the car really did stop for want of petrol and the accused got some petrol, it is hard to believe that the accused would have left the car and walked back home instead of putting the petrol into his car and driving it home. This does not mean that the entirety of his evidence is false. As was clearly shown by the second witness for the prosecution, witness Kenan was also an accomplice and his evidence is full of inconsistencies. However, the fact remains that his evidence that he did accompany the accused and that they went to Alfred Dick's house and that the accused got down with Exhibit "A" and walked up to a white car can be accepted.

Witness Croney proved to be the exact opposite of witness Kenan. He was a truthful witness and gave me the impression that he was stating in Court exactly what happened on the night in question, unmindful of the fact that his evidence did make him an accomplice. His evidence implicates witness Kenan in that he has stated that when they went to Alfred Dick's house it was witness Kenan who got down from the car with the container and attempted to get petrol. -When he was unsuccessful he came back to the car and then the accused said it was his turn and got off from the car with the container to get the petrol. According to him the accused went up to a white car, opened the petrol cap of the tank and used a hose. He was watching from a distance of about 20 feet as the accused syphoned the petrol. After the accused came back to the car with the container, they drove to the NPC Settlement and parked behind the NPC Cinema and he and Kenan went up to

some cars but could not get the hose into one of the cars. When they were walking back to their car they were caught by the Police. The accused, who was seated in his car, drove away.

Witness Agigo has not identified Exhibit "A" as the container that they used on the night in question. According to him they used a green container and a green-coloured hose. But his failure to identify the container does not, in my opinion, affect the prosecution case in view of the fact that witness Kenan has identified Exhibit "A" and Exhibit "A", according to Sgt. Tannang, was recovered from outside the accused's house when the accused pointed it out to Sgt. Dageago.

Witness Croney's participation in the crime appears from his own evidence and is clearly an accomplice. It is dangerous to act on the evidence of an accomplice unless there is corroboration. In this case there is corroboration in the evidence of Sgt. Tannang, who recorded the statement of the accused and has produced Exhibit "B".

Exhibit "B" has been properly recorded after the accused has been duly warned and cautioned. The defence has not attacked this document on the ground that it was a statement not properly recorded. I am satisfied that the statement of the accused in Exhibit "B" is a voluntary statement and that Exhibit "B" is an admissible document to which great weight must be attached. The English translation of what the accused stated in Nauruan in Exhibit "B" is "Nothing to say for all I can say is I'm guilty." The defence has not questioned the accuracy of the translation and I accept the translation as correct.

Therefore, on the evidence placed before this Court, there is no doubt whatsoever that on the night in question, the accused set out with prosecution witnesses Kenan and Croney to a number of places to steal petrol and that the accused did successfully steal petrol from Alfred Dick's car. I, therefore, hold that the prosecution has proved its case beyond all reasonable doubt and I find the accused guilty and convict him.

23rd July, 1976.

R. L. DE SILVA
Resident Magistrate