

IN THE DISTRICT COURT OF NAURU
CRIMINAL JURISDICTION
CRIMINAL CASE NO. 820 OF 1976

THE REPUBLIC

vss

HELON KENAN DOWEDIA, SANDY
DABUAE & TEDDY GEORGE BRAY
DABUAE

CHARGE:

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

JUDGMENT:

The first and second accused plead guilty and the case proceeded against the third accused who pleaded not guilty.

The prosecution has led the evidence of the Transport Supervisor of the N.P.C. who has testified to the fact that the motorcycle in question was in the workshop and on the 26th of April, he reported to the Police that someone had broken into the workshop and removed the rear wheel of the motorcycle belonging to Peter Marstin.

Both witnesses namely, the Transport Supervisor, witness McCorkell, and the owner of the motorcycle, witness Marstin, have identified Ex. "A" as a Honda XL motorcycle wheel.

The evidence of police Const. Tamakin does not connect the third accused with the charge he is facing. Certain portions of his evidence which was recorded on the understanding that the prosecution would lead the evidence of the previous owner of the motorcycle owned by the second accused cannot be acted upon as it is hearsay evidence in the absence of the evidence of the previous owner. The entire evidence of this witness also does not connect the third accused with the charge he is facing. The mere fact that the three accused was in the company of the first and second accused on the night in question and that they were carrying a motorcycle wheel does not necessarily mean that the third accused was associated with the other accused in stealing the wheel of the motorcycle. I, therefore, hold that there is no evidence against the third accused and I find him not guilty and acquit him.

19th October, 1976.

R. L. DE SILVA
Resident Magistrate