



**IN THE SUPREME COURT OF NAURU
AT YAREN
[CRIMINAL JURISDICTION]**

Criminal Case No. 1 of 2023

BETWEEN: THE REPUBLIC
PROSECUTION

AND: TOM TOM BILL
ACCUSED

BEFORE: Keteca J

Date of Hearing: 14th August 2024
Date of Submissions: 20th August 2024

Date of Ruling: 06th September 2024

Case may be cited as: Republic v Tom Tom Bill

Catchwords: Rape of Child under 16 years old: contrary to Section 116(1)(a)(b) of the Crimes Act 2016

Appearances:

Counsel for the Prosecution: **M.Suifa'asia**
Counsel for the Accused: **R. Tom**

RULING

A. BACKGROUND

1. The accused is charged with two counts of 'Rape of child under 16 years.' It is alleged that he committed one act on BT (first complainant) and LD (the second complainant).

B. THE CHARGE

2. The Information reads;

Count 1

Statement of Offence

RAPE OF CHILD UNDER 16: contrary to Section 116(1)(a)(b) of the Crimes Act 2016.

Particulars of the offence

Tom Tom Bill between the 1st October 2022 and 31st October 2022 at Meneng District in Nauru, intentionally engaged in sexual intercourse with BT and BT is a child under 16 years old.

Count 2

Statement of Offence

RAPE O CHILD UNDER 16: contrary to Section 116(1)(a)(b) of the Crimes Act 2016.

Statement of offence

Tom Tom Bill between the 1st October 2022 and 31st October 2022 at Meneng District in Nauru, intentionally engaged in sexual intercourse with LD and LD is a child under 16 years old.

C. THE APPLICATION

3. Although given time to file written submissions, Mr Tom failed to do so. In fact, when reminded by the Registry that his submissions were due, Mr Tom advised that he's withdrawing his application. This matter could have been concluded by now and Mr Tom's conduct has caused unnecessary work for the Prosecution.

D. SUBMISSION BY THE PROSECUTION

4. Ms Suifa'asia looked at Section 201 of the Criminal Procedure Act 1972 and how the court in *R v Jeremiah [2016] NRSC 42*, applied the provision. In that case, Crulci J listed the guidelines in 'no case to answer' submissions' as:

“The following are guidelines when a submission of no case to answer is made:

- (1) If there is no evidence to prove an element of the offence alleged to have been committed, the defendant has no case to answer.
 - (2) If the evidence before the court has been so manifestly discredited through cross-examination that no reasonable tribunal could convict upon it, the defendant has no case to answer.
 - (3) If the evidence before the court could be viewed as inherently weak, vague or inconsistent depending on an assessment of the witness's reliability, the matter should proceed to the next stage of the trial and the submission dismissed.’
5. Counsel has comprehensively examined all the evidence adduced so far. The testimonies of both complainants are clear. They both state that the accused performed oral sex on them. The incident is recorded on a video that went viral on the island.
 6. There is 'sexual intercourse' as defined under section 8 of the Crimes Act 2016. The intention is clear as defined under Section 17. Both complainants are below the age of 16 years old.

DISCUSSION

7. I agree with Counsel for the Prosecution.
8. This matter should proceed to the next stage of the trial.

CONCLUSION

9. The application of no case to answer is dismissed.
10. Explain the options to the accused.

DATED this 06th Day of September 2024.


Kiniviligame T. Keteca
Judge