



## HIGH COURT OF KIRIBATI

*Criminal Case No 56/2016*

**THE REPUBLIC**

**v**

**TERETIA BARANIKO IOANE**

*Tewia Tawita, Senior State Attorney, for the Republic*  
*Teetua Tewera for the accused*

### **FILE NOTE**

- [1] By information filed on 21 April 2016 the prisoner was charged with 1 count of forgery (section 329(2)(a) of the *Penal Code*), 1 count of causing money to be paid on a forged document (section 338(a) of the *Penal Code*) and 1 count of false pretences (section 301(a) of the *Penal Code*). For reasons unclear, the case was not mentioned by the court until 1 August 2017, and the prisoner first appeared before the court on 24 August 2017.
- [2] On 27 September 2017 the prisoner pleaded guilty before Commissioner Eberi to all 3 counts, and submissions on sentence were received from both sides. For reasons again unclear, the Commissioner failed to impose a sentence, and the case remained dormant until mentioned before me on 23 July 2018. At the request of the parties, the matter commenced afresh before me on 27 July. On that occasion I indicated that I was not comfortable proceeding on the original information – counts 1 and 2 were clearly duplicitous, in that they each purported to include several offences within a single charge. Furthermore the information did not comply with section 70 of the *Criminal Procedure Code*. Counsel for the prosecution undertook to file a fresh information, and the prisoner's pleas entered before the Commissioner were vacated.
- [3] A second information was filed on 10 August, charging the prisoner with 7 counts of forgery, 7 counts of causing money to be paid on a forged document and 1 count of false pretences. When the matter came before me that day, I informed counsel for the prosecution that counts 1, 5, 6, 7 and 8 of the fresh information still appeared to have the duplicity problem faced by the original information.
- [4] A third information was then filed by the prosecution on 23 August 2018, under which the prisoner was charged with 13 counts of forgery, 13 counts of causing money to be paid on a forged document and 1 count of false pretences. On

31 August, counsel for the prisoner advised that his client would be pleading guilty to all but 2 of the charges. The matter was fixed for trial of those charges before me on 28 January 2019, with sentencing on the other 25 charges to await the conclusion of the trial.

- [5] On 24 January 2019 a fourth information was filed, charging 12 counts of forgery, 12 counts of causing money to be paid on a forged document and 1 count of false pretences. It appears that this information omitted the 2 counts to which the prisoner objected because, at the start of the trial on 28 January, her counsel advised that she would now be pleading guilty to all counts. Counsel for the prosecution entered a *nolle prosequi* in respect of the 3 previous informations under section 68(1) of the *Criminal Procedure Code*.
- [6] The prisoner was arraigned and pleaded guilty to all 25 counts. An agreed summary of facts was tendered and submissions were received from both counsel. In the course of submissions it appeared that there was some confusion regarding the individual (said in the agreed summary of facts to be in Malaysia) to whom the prisoner had sent the bulk of the proceeds of the forged cheques. There was also insufficient information regarding what share of the funds the prisoner had kept for herself. The case was adjourned until this morning. Counsel for the prosecution having no objection, the prisoner's bail was continued.
- [7] In the meantime, I became aware that the prisoner is the mother of my son's girlfriend. When the case was called on this morning, I informed counsel of this fact and advised that, if either of them asked that I recuse myself, I would do so. Counsel for the prosecution objected to my continuing to hear the case and I formally recused myself. The matter will now be heard by the Chief Justice, and has been adjourned for sentencing submissions before him on 13 February at 9:30am. The prisoner's bail has been continued.

Dated 30 January 2019.

  
**Lambourne J**  
Judge of the High Court

