



## HIGH COURT OF KIRIBATI

*Criminal Case N° 39/2019*

### THE REPUBLIC

v

### NABWEBWE IANTAAI

*Teanneki Nemta for the Republic*

*Raweita Beniata for the accused*

### FILE NOTE

- [1] By information filed on 19 September 2019 the accused was charged with a single count of indecent assault, contrary to section 133(1) of the *Penal Code*. On 27 September the matter was fixed for trial on 3 February 2020.
- [2] On 3 February the accused failed to appear, and a warrant was issued for his arrest. He was located on Makin and returned to Tarawa on 12 February. He has been remanded in custody ever since. A new trial date was allocated, namely 20 April, although counsel were advised that every effort would be made to give the accused an expedited hearing, if time became available. The possibility of hearing the matter sometime this week was flagged.
- [3] The case was called on for trial this afternoon. Counsel for the prosecution filed a new information, charging the accused with entry of a dwelling-house in the night with intent (contrary to section 294(a) of the *Penal Code*) and engaging in unlawful sexual intercourse (contrary to section 129(1) of the *Penal Code*). A *nolle prosequi* was entered with respect to the original information and the accused was discharged. After a brief adjournment, counsel for the accused confirmed his readiness to proceed on the new charges. In passing, he indicated that he might need to seek an adjournment once the defence case was underway, as he had a defence witness on Makin.

- [4] I made it clear to counsel for the accused that it was not my practice to split up a trial. Once a trial has started, an adjournment will be given only rarely. With only 2 prosecution witnesses, it was likely that the defence case would commence tomorrow. If the trial started today, and his witness was not here tomorrow, it would be very unlikely that I would grant an adjournment to secure her attendance. Defence counsel then asked that the trial be listed for a later date.
- [5] In the circumstances, I have no choice but to revert to the April trial date. No earlier dates are available. As a result, the accused forfeits the opportunity he had for an expedited hearing. He will continue to be remanded in custody until 20 April.

Dated 17 February 2020.

  
**Lambourne J**  
Judge of the High Court

