

IN THE DISTRICT COURT OF NAURU

Criminal Jurisdiction

, Criminal Case No. 571 of 1975

THE REPUBLIC

vs

TIROBAIY TARUKE

CHARGE:

1. Drunk in a public place. Contrary to Section 3 of the Police Offenses Ordinance 1967.
2. Stealing. Contrary to Section 398 of the Criminal Code Act 1899 of Queensland-The First Schedule.

JUDGMENT:

The case for the prosecution is that on the 17th of December, 1975, at about 8:00 p.m., the accused went to Q Store and stole several pairs of jeans.

Witness King has stated in his evidence that on the night in question the accused came into his store and stayed for about half an hour without saying anything; and when he was attending to some customers, the accused suddenly snatched several pairs of jeans and rushed out of the store. He ran after the accused and stopped him about ten feet away from the store and asked him why he took the jeans. The accused replied that he wanted to buy them. He detained the accused in the store and asked his assistant, Mr. Wong, to telephone the Police. In the meantime, Constable Thoma came to the store and he reported the matter to him. Constable Thoma took charge of the accused and took him away.

The prosecution has also led the evidence of witness Wong who was in the store at the time of the incident. He spoke to the accused when he came in and when he was attending to other customers he heard witness King shout that somebody had stolen something from the store. He went out of the store and found witness King holding the back of the accused's shirt and one of his hands. This was about eight feet away from the rear entrance of the store. He then reported the matter to the Police at the request of witness King. He saw the accused holding a pile of jeans.

Both witnesses King and Wong have identified the jeans (Exhibit A) as the ones stolen from the store.

Police Constable Godfrey Thoma, in his evidence, has stated that he went to the store because he noticed a gathering of people and he saw a Chinese and the accused outside the store tossing each other a bundle of clothes and the Chinese was saying, "You can take them if you cannot buy them". Then the Chinese turned to him and said, "The accused took the clothes without paying". The witness has identified Exhibit A.

The evidence of Police Constable Godfrey Thoma leaves no doubt in my mind that an incident of the nature as testified to by witnesses King and Wong did occur on the night in question. Both witnesses King and Wong corroborate each other on all material particulars and I accept their evidence and I hold that the prosecution has proved Count 2 beyond all reasonable doubt.

As regards Count 1, the only evidence is that of Constable Thoma, who has stated that he noticed that the accused had been drinking. Witnesses King and Wong have not stated anything on this matter although questions were put to them as to whether there was anything unusual in the behaviour of the accused. The mere evidence that the accused had been drinking is not sufficient to prove that the accused was drunk in a public place. I, therefore, hold that the prosecution has failed to prove Count 1 and I find the accused not guilty on Count 1 and acquit him.

17th March, 1976.

R. L. DE SILVA
Resident Magistrate