

IN THE DISTRICT COURT OF NAURU

Criminal Jurisdiction

Criminal Case No. 60 of 1977

THE REPUBLIC

vs.

RICHARD JOHN ROE

CHARGE:

By false pretence or wilfully promise or partly a false pretence and partly by a wilfully false promise and with intent to defraud obtaining credit, contrary to section 427(2) of the Criminal Code 1899 of Queensland.

JUDGMENT:

The case for the prosecution is that the accused checked in at the Meneng Hotel on the 17th of February, 1977 and stayed on as a paying guest up to 10th March on which date the accused checked out of the Hotel without paying his bill which amounted to \$468.60.

The prosecution has led the evidence of John Rhodes, the manager of the Hotel, who has stated in his evidence that at the time of his departure, the accused owed the Hotel a sum of \$468.60 and that he had not made any arrangements to pay the bill. The accused was not given authority to leave the Hotel. He saw Ex. "A" at 9.00 a.m. on the 10th of March and by that time the accused had left.

The prosecution has produced the statement of the accused, Ex. "B", through Sgt. Tannang who interviewed him on the morning of Friday, the 11th March, at 10.00 a.m. There was also the evidence of the receptionist of the Hotel, Alison, who has stated that the accused asked for his bill and when he was told that the manager was not in, he wrote a note to him. The accused left and did not wait to see the manager. He had no luggage except for a briefcase.

The accused has given evidence and his position is that he wanted to contact the manager but failed. But he managed to contact his assistant and explained the situation to him. He told him that he had no money as his cheque had not arrived and that he was going to pay the bill. He arrived in Nauru with \$10.00 and wanted to leave on the Eigamoiya on the 10th of March. A week before he checked out, he got his bill updated.

It is clear from the evidence that the accused arrived on the Island carrying only a briefcase and with \$10.00 in his pocket. He checked in at the Meneng Hotel. It is equally clear from the statement of the accused, Ex. "B", that this is not an isolated instance of the accused staying at a hotel and checking out without paying his bill. His statement to the Police clearly reveals his modus operandi. It is too far fetched to expect the Court to believe that in every hotel, motel and lodgings that the accused had stayed he was expecting a cheque to pay his hotel bills. This cheque, it appears, has never materialised as he has stated that in one instance, he paid the hotel bill after more than one year. His statement may be true or false but the fact remains that in that instance, too, the accused checked out probably as he attempted to do in this case without the consent of the Hotel management. The moment a person checks in at a hotel on a cash-payment basis, he is obliged to pay the bill at the end of his stay and not check out without the consent of the management and then take up the position that he will pay his bill later.

There are three elements which would have to be considered in the construction of the section under which the accused is charged. First, there must be an incurring of a debt or a liability; secondly, there must be the obtaining of credit; and thirdly, there must be fraud: the conjunction of these three ingredients makes the offence. No one can doubt that the accused did incur a debt or a liability when he checked in at the Hotel in circumstances which implied a promise to pay. The management of the Hotel furnished the accused with food and accommodation relying on the readiness and ability of the accused to pay. The management trusted the accused and parted with its goods without insisting on pre-payment. Therefore, credit was obtained. The next question is - Was there fraud? There is ample evidence to justify that the accused is guilty of fraud. He goes to a hotel where the ordinary custom is to pay on checking out; the accused knew that he obtained food and accommodation in the Hotel on the understanding that ordinary custom will be observed. The fact that he did this with only \$10.00 in his pocket shows that he intended to cheat and had no intention at all to honour the debt. The accused may have been successful in his attempts in other places to leave behind unpaid bills, but he came a cropper in this instance due to the vigilance of the Hotel management.

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I, therefore, hold that the prosecution has proved beyond all reasonable doubt that the accused, by false pretence, obtained credit from the management of the Meneng Hotel to the value of \$468.60 and I find him guilty and convict him.

R. L. DE SILVA
Resident Magistrate

15th March, 1977