

IN THE SUPREME COURT OF NAURU
Criminal Jurisdiction
Criminal Appeal No. 10 of 1978

DARAIMON DOWEDIA

Appellant

v.

DIRECTOR OF PUBLIC PROSECUTIONS

Respondent

16th May, 1978 at 3.25 p.m.

In Court

Before Mr. Justice I.R. Thompson, Chief Justice

For the REpublic: MR. D.G. Lang, D.P.P.

For the Appellant: -

Appellant present.

Interpreter: Mr. Alec Harris, Clerk of Courts

Appeal against severity of sentence only.

APPELLANT: Another person who committed a similar offence was sentenced to 3 months' imprisonment. He had two p.c. for stealing as I have. My p.c. were a long time ago. Two other persons in Criminal Case No. 18 of 1977 were sentenced to 6 months' imprisonment for stealing over \$1,000 worth of goods from an enclosed yard. I stole only a little petrol.

The sentence is harsh and severe. I ask for leniency. I will not do this type of thing again.

MR. LANG: It was a deliberate, well-planned theft committed late at night. A lighter sentence might have been appropriate: but the appellant has an appalling criminal record. No convictions recently for dishonesty but a whole range of offences. However, he has kept out of trouble for longer than in the past, e.g. 4 months in 1976-1977. No offences for anything

but offensive behaviour since 1971, i.e. no serious offence or offence of dishonesty.

A **prison** sentence is justified but 9 months may be harsh and severe, in view of the length of time since last conviction for an offence of dishonesty.

JUDGMENT:

The appellant, although continually in trouble over the years, has not been convicted of any serious offence or any offence of dishonesty for a long time. The offence itself is quite serious, even though the quantity stolen was small, because of the circumstances of stealth and intrusion into a private yard. Nonetheless, it would appear that the District Court gave too much weight to the appellant's record of previous convictions without having full regard for the details of that record.

The appeal is allowed; the sentence on the first count is set aside and a sentence of four months' imprisonment with hard labour is imposed in its place. That sentence is to be served concurrently with the sentence imposed on the second count.

I.R. THOMPSON
Chief Justice

16/5/78