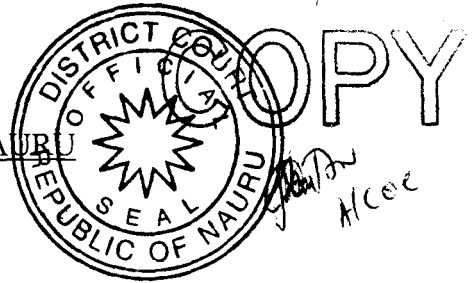


IN THE DISTRICT COURT OF NAURU



CRIMINAL CASE NO. 37/99

THE REPUBLIC

v

JACOB HARRIS

JUDGMENT

The accused **JACOB HARRIS** has been charged for having committed Indecent Assault on Female contrary to section 350 of the Criminal Code Act of Queensland 1899 (1st Schedule) Adopted.

The accused pleaded not guilty and claimed a trial.

The incident took place in Room No. 329 of Menen Hotel on 7th March 1999. The complainant is Miss **MARODEE LE-BOEUF**. She has given the details in her

statement as PW1. She deposed that at about midnight, the accused contacted her on phone and he wanted to come to her to talk. She allowed him to come there and then both of them continued to talk for about 1½ hours. Thereafter, the accused went to the toilet and after sometime came out from there. When she was looking in the other direction, the accused grabbed her from behind and started kissing her and then removed her on the bed and made her lie there. The complainant continued to object by saying “No, No” and by asking him to stop. The accused, however, being heavy and strong could not be moved away by the complainant. The accused then put his hand up into the shorts of the complainant, and thereafter, put his finger into the vagina. The complainant then told the accused that he was raping her. It was at this stage that the accused got off and came back to the chair and then said that he was sorry. The complainant told him that it was too late and she asked the accused to leave her room. After sometime she went to the Reception with a view to inform the police. The girl at the Reception, however, refused to ring the police and then the complainant herself went to the Police Station in her car and reported the matter.

Another witness, **MARVIN TOKAIBURE**, Constable deposed to the Caution

COPY

Statement made by the accused on 7.3.99. Two statements were recorded. These Statements are Ex.P1 and Ex.P2 and English translations are Ex.P1/1 and Ex.P2/1. The accused practically admitted the details of the incident except that, the complainant had told him to come again at 5:30 A.M. failing which she threatened, she would inform the police. The complainant was also cross-examined on this point. She denied having invited the accused to come at 5:30 A.M.

I have considered the deposition of the complainant. I do not find any reason to disbelieve it. The statement appears to be natural and straightforward and I place reliance upon the same. The prosecution case also gets corroboration from the statement of the accused recorded after Caution. I hold that the Charge is proved beyond reasonable doubt. The accused is found guilty accordingly.

I have given the accused an opportunity of being heard on the question of sentence. He says that he is working as a Security Officer in the Menen Hotel and is earning \$407 fortnightly. He further says that he is supporting his mother and he may be sentenced to pay fine only and he may not be sent to prison.

COPY
4/4

Judgment-District Court Criminal Case No. 37/99

I have considered the submissions made by the accused and the circumstances of the case. I find that such cases of assault against women are increasing day by day and there is need to curb this trend with a heavy hand. Imprisonment in such cases is the proper remedy in addition to fine. Accordingly, I convict the accused under section 350 of the Criminal Code Act and, I sentence him to suffer imprisonment for a period of one year and to pay a fine of \$500.00. In default of payment of fine, the accused shall suffer further imprisonment for a period of 3 months.

(SGD) G. L. CHOPRA
RESIDENT MAGISTRATE
23.4.99

*A certified true copy of
the judgment.*

*JOHN D. PRASAD
CLERK OF COURT*