

AROKOY, Appellant
v.
TRUST TERRITORY OF THE PACIFIC ISLANDS, Appellee
Criminal Case No. 66
Trial Division of the High Court
Truk District
June 20, 1958

Appeal from conviction in Truk District Court of obstructing justice in violation of T.T.C., Sec. 418. Appellant contends that his conduct did not prevent arrest of third party by policeman. The Trial Division of the High Court, Chief Justice E. P. Furber, held that trial judge was in best position to weigh evidence and determine whether actions of accused constituted obstruction of justice, and that actual prevention of arrest was immaterial to question of guilt.

Affirmed.

1. Obstruction of Justice—Generally

Resisting policeman while he is arresting third party is sufficient to constitute offense of obstructing justice. (T.T.C., Sec. 418)

2. Obstruction of Justice—Generally

In order to commit crime of obstructing justice it is not necessary to prevent arrest by policeman of third party nor is it material whether policeman could have made arrest if he had been more persistent. (T.T.C., Sec. 418)

3. Obstruction of Justice—Generally

Actual violence or threats are not required in order for acts to constitute crime of obstructing justice. (T.T.C., Sec. 418)

4. Criminal Law—Appeals—Scope of Review

Trial judge in criminal prosecution is in better position than appellate court to weigh conflicting evidence and determine whether actions of accused constituted obstruction of justice. (T.T.C., Sec. 418)

<i>Assessor:</i>	JUDGE ICHIRO MOSES
<i>Interpreter:</i>	ANDON L. AMARAICH
<i>Counsel for Appellant:</i>	SMART LAMPSON
<i>Counsel for Appellee:</i>	MITARO DANIS

FURBER, Chief Justice

This is an appeal from a conviction under Section 418 of the Trust Territory Code for obstructing justice by

resisting a policeman when he was trying to arrest a third person.

The appellant's counsel claims as ground of appeal that the evidence does not show guilt beyond a reasonable doubt. He argues particularly that the appellant's conduct did not prevent the arrest which the policeman was attempting and that the arrest could easily have been made shortly after the incident in question and was not.

The appellee argues that interference by the appellant with a policeman in the lawful pursuit of his duties has been clearly shown.

The record shows that two witnesses for the prosecution testified flatly and clearly that the accused pulled the policeman's arm away when he was trying to arrest Tab for drinking liquor. One of these also testified that the accused prevented the policeman's body from reaching Tab's body. Tab testified that there was no time when the policeman was trying to arrest him and the accused prevented it, but there was also evidence that Tab was very drunk at the time of the incident. Two other witnesses testified they were present and did not see the accused do the things referred to above. Probable cause for the attempted arrest was clearly shown.

OPINION

[1, 2] The evidence of the prosecution's witnesses, summarized briefly above, was amply sufficient, if believed, to warrant the trial judge in finding that the accused, beyond a reasonable doubt, unlawfully resisted or interfered with a law enforcement officer in the lawful pursuit of his duties. That was all that was needed in order to find the accused guilty under the terms of Section 418 of the Trust Territory Code. The essential words of that section, so far as this case is concerned are as follows:—

“Whosoever shall unlawfully resist or interfere with any law enforcement officer in the lawful pursuit of his duties, or . . . , shall be guilty of obstructing justice,”

Whether the accused actually prevented the arrest, or whether the policeman could still have made it if he had been more persistent, is immaterial as far as the question of guilt is concerned.

[3] The fact that the resistance was not shown to be very violent or accompanied by any threats or attempted orders, is also immaterial as to the question of guilt. Actual violence or threats are not required either by the express words of the section or by the usual construction of them. See 39 Am. Jur., Obstructing Justice, § 10.

[4] Fairly gentle though silent resistance by a man of great apparent strength, might have considerable deterrent effect on a policeman. The trial judge, who had before him the accused and the witnesses, including the policeman who had attempted to make the arrest, was in the best position to weigh the conflicting evidence and determine the seriousness of the accused's actions. The sentence imposed indicates that the judge did not consider the resistance involved was very great. I find no ground for interfering with his determination.

JUDGMENT

The finding and sentence of the District Court for the Truk District on the count charging obstructing justice in its Criminal Case No. 680 are affirmed.