

SOILO, SUSUO, and KONRAT, Appellants

v.

TRUST TERRITORY OF THE PACIFIC ISLANDS, Appellee

Criminal Case No. 162

Trial Division of the High Court

Truk District

December 14, 1962

Appeal from conviction in Truk District Court of dynamiting fish in violation of T.T.C., Sec. 780. Appellant contends that government relied entirely on circumstantial evidence. The Trial Division of the High Court, Chief Justice E. P. Furber, held that crime may be proved beyond reasonable doubt by circumstantial evidence alone.

Affirmed.

1. Criminal Law—Burden of Proof—Reasonable Doubt

Crime may be proved beyond reasonable doubt by circumstantial evidence which may be as satisfactory as direct testimony and may outweigh it.

2. Appeal and Error—Scope of Review—Facts

The Trial Division of the High Court may review facts as well as law on appeal from District Courts but will make every reasonable presumption in favor of determination of trial court. (T.T.C., Sec. 200)

<i>Assessor:</i>	JUDGE ICHIRO MOSES
<i>Interpreter:</i>	F. SOUKICHI
<i>Counsel for Appellants:</i>	KESKE A. MARAR
<i>Counsel for Appellee:</i>	ISTARO, R.

FURBER, *Chief Justice*

This is an appeal from a conviction for “dynamiting fish” as it is popularly called, that is, for violation of the Trust Territory Code, Section 780. The grounds of appeal alleged are, in essence, that the government failed to prove the crime beyond a reasonable doubt.

Counsel for appellants argued that there was no direct evidence that the appellants were the ones who had killed the fish in question by the use of an explosive, and that

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the mere facts that the appellants had fish in their possession that had been so killed, and sold some of them, and had some goggles in their canoe, were not enough to establish a violation of Section 780. He stated further that the appellants believed that the fish were killed by use of an explosive by people from another canoe.

Counsel for appellee admitted that the government had had to rely on circumstantial evidence, but argued that the circumstances here were strong enough to establish guilt beyond a reasonable doubt, calling attention particularly to the yellow stains on the hands of at least two of the appellants, the goggles in the canoe, and the fact that the appellants had endeavored to evade the constabulary.

OPINION

[1] It is well established that a crime may be proved beyond a reasonable doubt by purely circumstantial evidence, and that such evidence in a criminal case may be fully as satisfactory as direct testimony, and will sometimes outweigh it. 20 Am. Jur., Evidence, §§ 273 and 1218.

The only substantial question in this case is whether the evidence, considered in the light most favorable to the decision of the lower court, shows circumstances strong enough to overcome the direct testimony of two of the accused to the effect that none of them dynamited the fish in question, and is sufficient to justify the finding made by the trial judge. Obviously, if the trial judge had believed these two accused, he could not properly have found them guilty of the crime charged.

[2] While under Section 200 of the Trust Territory Code the Trial Division of the High Court on appeals from the District Courts may review the facts as well as the law, it is clearly not in as good a position as the trial court to pass on the credibility of witnesses who appeared and testified personally in the trial court. Furthermore, the ap-

pellate court should make every reasonable presumption in favor of the determinations of the trial court. 3 Am. Jur., Appeal and Error, §§ 896 and 923.

After a careful examination of the record, this court is of the opinion that the circumstances shown by the evidence, taken all together, were sufficient to justify the trial judge in finding that the accused were guilty beyond a reasonable doubt.

JUDGMENT

The finding and sentences of the Truk District Court, in its Criminal Case No. 1562 are affirmed.

NGIRAMULEI, Appellant

v.

MALCHIYANGED RIDEB, Appellee

Civil Action No. 223

Trial Division of the High Court

Palau District

December 27, 1962

Action on contract under which buyer agreed to purchase boat from seller for certain sum, with mortgage of buyer's other boat to secure performance. Upon buyer's default under the contract, seller repossessed other boat. The Palau District Court awarded both boats to seller, holding that value of mortgaged boat constitutes use rental of seller's boat. On appeal, the Trial Division of the High Court, Associate Justice Paul F. Kinnare, held that local custom regarding payment of use rental of boat exchanged under purchase agreement is controlling.

Modified in part and affirmed in part.

1. Sales—Repossession of Goods

As a general rule, seller is not entitled as matter of right, where title to goods has passed from him to buyer, to retake possession of goods sold on credit on sole ground that buyer failed to make payment as promised.

2. Custom—Applicability

Trial court in Trust Territory may properly base its decision on local custom where customary law is not in conflict with laws of Trust Territory or laws of United States in effect in Trust Territory. (T.T.C., Sec. 21)