RANIPU, Appellant
v.
TRUST TERRITORY OF THE PACIFIC ISLANDS, Appellee

Criminal Case No. 125

Trial Division of the High Court

Truk District

January 6, 1961

Appeal from conviction in Truk District Court of criminal contempt of court in violation of T.T.C., Sec. 415. Appellant contends that he did not know community court was in session when he created disturbance and that he ceased disturbance when notified of this fact. The Trial Division of the High Court, Chief Justice E. P. Furber, held that evidence was insufficient to show that accused willfully and knowingly interfered with operation of court, and that new trial complaint could be amended to charge of disturbing the peace.

Reversed and remanded.

1. **Contempt—Criminal—Generally**
   Essence of offense of contempt of court is wilful disregard of authority of court or disobedience to it. (T.T.C., Sec. 415)

2. **Contempt—Criminal—Interference with Operation of Court**
   In doubtful situations where there is interference with operation of court, question of intent is important in determining whether interference was knowingly and wilfully accomplished or amounted to wilful disrespect. (T.T.C., Sec. 415)

3. **Contempt—Civil—Violation of Injunction**
   In case of civil contempt for violation of injunctions, person cannot be guilty of contempt for violating injunction unless it is shown he had actual notice of injunction prior to performance of acts complained of. (T.T.C., Sec. 284)

4. **Contempt—Criminal—Interference with Operation of Court**
   Where conviction is sought on ground of interference with court by acts not intended to impede court as protest against it, person cannot be found guilt of criminal contempt unless it is shown he knew or should have known that acts were likely to affect operation of court. (T.T.C., Sec. 415)

5. **Contempt—Criminal—Generally**
   Public disturbance which is insufficient to constitute contempt of court may constitute offense of disturbing the peace. (T.T.C., Sec. 426)

Assessor: JUDGE OLAF W.
Interpreter: FRITZ SOUKICHI
Counsel for Appellant: ANDON L. AMARAICH
Counsel for Appellee: MITARO S. DANIS

FURBER, *Chief Justice*

This is an appeal from a conviction of criminal contempt for causing a disturbance which interrupted for a short time proceedings of the Romalum Community Court.

No witnesses appeared for either the appellant or the appellee at the hearing on the appeal but four photographs of the building in which the Romalum Community Court was being held at the time of the incident were presented by the appellant and admitted by stipulation.

Counsel for the appellant argued that the issue was whether the appellant knew that court was in session when he made the disturbance. He pointed out that the evidence clearly showed that the appellant quieted down and made no more trouble when he learned that court was in session. Counsel therefore claimed that the prosecution had failed to prove that the appellant "knowingly, and wilfully" interfered with the operation of the court as required to constitute this offense under Trust Territory Code, Section 415, and that he should therefore have been acquitted of this charge, citing 20 Am. Jur., Evidence, § 149.

Counsel for the appellee called attention to the fact that the appellant was a registered resident of Romalum which is not a big island, that he should know the officials there even though he had been living on Tol for some time, and court was in formal session in plain view with more than ten people present when the appellant made the disturbance involved. Counsel for the appellee argued therefore that the appellant should have found out what was going on before he made any disturbance and cited Black's Law Dictionary, "Contempt", p. 416 and 417, *Conley v. U.S.*, 59 F.2nd 959, (cited in 18 Federal Digest p. 4), 12 Am. Jur., Contempt, §§ 2 and 4, and *Wasserman v. U.S.*, 161 F. 722 (cited in 18 Federal Digest p. 6).

In rebuttal counsel for the appellant pointed out that the evidence showed the appellant had been living on Tol since 1953 and that the judge of the Romalum Community Court who was holding court at the time in question had only become judge in 1956.

The undisputed evidence showed that the Romalum Community Court was regularly held in the public community building but that on the particular day in question that building was being used for school, that therefore the court was being held in a small hut without any walls designed for a public resting place beside the church, and that the appellant became quiet when told by the bailiff and prosecutor that court was being held. It further appeared that the occasion for the disturbance was that the appellant had been informed a certain man Siro had recently injured the appellant's brother and the appellant therefore directed some insulting words to Siro when he saw him in the hut and went directly toward him. While Siro was in fact acting as counsel for the accused in the case then on trial in the hut, the appellant's remarks and desire to approach Siro were not connected with any court action.

OPINION

[1] The very essence of contempt of court both under the words of Section 415 of the Trust Territory Code, entitled "Criminal contempt", and as contempt of court is generally understood in the United States, is a wilful disregard of the authority of a court or disobedience to it. Vol. I Bouvier's Law Dictionary, 3rd Rev., "Contempt", p. 615. Black's Law Dictionary, 3rd Ed., "Contempt", p. 416. 12 Am. Jur., Contempt, § 2.

[2] While it is possible for there to be such a wilful disregard of a court as to constitute contempt of court without any conscious intent to be disrespectful or contemptuous, in all doubtful situations concerning interference with the operation of a court, the question of intent is important in determining whether the interference was knowingly and wilfully accomplished or amounted to wilful disrespect. *Ryals v. U.S.*, 69 F.2nd 946 (cited in 18 Federal Digest p. 10, key no. 7. 12 Am. Jur., Contempt, § 2 note 5.

[3] Even in the case of civil contempts for violation of injunctions, it is regularly held that a person who is not otherwise a party to the case in which the injunction was issued cannot be held guilty of contempt for violating the injunction unless it is shown that he had actual notice of the injunction prior to the performance of the acts complained of. 12 Am. Jur., Contempt, § 27. This principle would seem all the more applicable to the crime of criminal contempt which must be proved beyond a reasonable doubt.

[4] In the present case there is nothing to indicate that the appellant intended any disrespect to the court or knew there was any court in session and the way he promptly quieted down when informed the court was in session would seem to clearly indicate a definite intent and desire

to show it proper respect. This court holds that in such a situation as this where conviction is sought on the ground of interference with a court by acts not intended to influence or impede the court or as a protest against it, a person cannot properly be found guilty of criminal contempt within the meaning of the Trust Territory Code, Section 415, unless it is shown that he knew or clearly should have known that his acts were at least likely to affect the operation of a court.

The appellant might, it is true, have shown more diligence and caution in endeavoring to find out what was happening before he caused the disturbance complained of, but this court considers the evidence taken as a whole clearly insufficient to show beyond a reasonable doubt that the appellant should have known that his actions would interfere with the operation of any court. The court therefore holds the evidence insufficient to support a finding of guilty of criminal contempt.

[5] On the other hand the evidence tends to clearly indicate that the accused was guilty of disturbing the peace in violation of Trust Territory Code, Section 426, unless this evidence can be further rebutted or answered in some way.

JUDGMENT

The finding and sentence of the District Court for the Truk District in its Criminal Case No. 1072 are set aside and the case referred back to that court for a new trial, subject to the following directions:—

a. The judge who originally heard the case is to reopen it and permit the complaint to be amended to charge disturbing the peace or new charge of disturbing the peace to be filed (as if under Rule 13h(2) of the Rules of Criminal Procedure), and then, after the accused has had reasonable time to prepare to meet the new charge,

take any additional proper testimony either side wishes to offer on this charge of disturbing the peace, but the judge is also to consider the testimony already in the record without its being reintroduced.

b. After taking such additional testimony the judge shall finish the trial as if there had been no previous finding or sentence; shall allow the evidence; and, if the finding is guilty, allow the usual opportunity for hearing on the question of sentence and impose a new sentence.