

DAY IN COURT FOR THE 'BIs6'

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The Third (3) Day of November in the year of our Lord 2015 was the long awaited day for the group of six (6) Barotse Imilemas (BIs6) to appear in court for commencement of trial. They were arrested on 30th September, 2015 for an assortment of cooked up charges being:

1. Conduct likely to cause a breach of peace;
2. Refusing to go into lawful custody;
3. Obstructing Police officers from performing their duty; and
4. Two counts of Assaulting a Police Officer while on duty.

The matter came up for trial before Magistrate Milumbe sitting in the Kaoma Magistrate's Court which ironically is 200km from the place the crimes were alleged to have been committed.

At the start of proceedings the prosecution team made application to drop all the charges apart from three being: conduct likely to cause a breach of peace; obstructing police officers from performing their duty; and two counts of assaulting a police officer while on duty. The defence then followed with application to change plea with respect to the charge of conduct likely to cause a breach of peace whereby all the four accused pleaded guilty. This reflected the understanding reached between the prosecution and defence teams for the BIs6 to plead guilty so that, being first offenders, they would be given a light sentence with an option for a fine. Unfortunately, the Magistrate did not follow through the deal and decided to give a sentence of 30 days imprisonment with hard labour to all the four (Mutumba Lyamba, Saviour S. Mumbela Siyuni Mendai and Anthony Matomola) without the option for a fine, despite the defence's plea for maximum lenience and the possibility of a fine instead of serving time.

The prosecution then proceeded with trial for the remaining two, Situmbeko M and Malamo Malamo who were each charged with obstructing police officers from performing their duties while Malamo Malomo was further charged with two counts of assaulting a Police officer on duty. Two witnesses gave evidence. They narrated how the two, whilst acting with other unknown persons, obstructed police officers from doing their duty and how Malamo Malamo in the process assaulted two police officers. The most amusing part of the evidence was that both policemen were hit with one stone, described as a 'burnt brick'. The burnt brick hit one officer on the chin thereby causing a cut and then hit into the wall. On hitting the wall, the brick broke into two pieces with one of the pieces bouncing back to hit yet another police officer on the lower chin, thereby causing him a bruise. One wonders what kind of physics was involved in that a burnt brick will travel with so much velocity as to hit two objects in the process and yet maintain enough momentum to still hit a third object and cause injury. Of course the learned defence counsel, Mr. Nathanael Inambao had a field day at punching holes in the evidence these officers gave such that it remains to be seen how this prosecution team can still be able to make a case out of it.

The matter comes up for continued trial next year on 1st and 2nd February 2016, after the defence counsel successfully applied to have the court dispense with two appearances for mention on 3rd Decembe, 2015 and 5th January 2016. The defence counsel also made an undertaking to file a notice of appeal against the sentencing of the four convicted BIs and consequently apply for bail pending appeal.