

BEAT THE RAP

More charges

Although it was good that Joseph turned away from the fight, he was very unwise to pick up the bottle, as that action could have led to another charge – of assault.

'Assault' (in Queensland, and it is similar in other places) means:

- striking, touching, moving or applying force to someone; or
- threatening to apply force to someone

without their consent.

In the DVD story, although Joseph did not touch Raj, he could have been charged with assault. This is because 'assault' includes attempting or threatening to assault somebody. If Joseph had attacked Raj and used the broken beer bottle as a weapon, that would certainly have been assault. But by holding the broken bottle in his hand during a fight, with a very angry look on his face, it could be argued that Joseph was threatening Raj. He could have been charged if Raj or others had told police, and police thought they had enough evidence and that they should go ahead and charge.

A person can act in 'self-defence' if they are being attacked, but you can not respond more harshly to the attack otherwise you could be charged with assault. This is a complex and difficult legal area. It is best not to use violence if at all possible.

What court would hear this charge?

If Joseph had been charged with assault, this charge could be heard by either the Magistrates or District Court.

If Joseph wanted to plead guilty, he could make the plea of guilty and be sentenced by the Magistrates Court.

If Joseph did not want to plead guilty, he would go to trial. Joseph may be tried by a Magistrate alone (in the Magistrate's Court) or by a jury in the District Court.

What might have happened?

Joseph was very wise not to carry out the bottle threat. If Joseph had been found guilty of assault, the maximum punishment he could receive would be three years in jail. If the assault caused harm to the other person then the maximum penalty is much greater.