

REGINA v. PATRICK TEIKAMATA

High Court of Solomon Islands
KABUI, J

Criminal Case No. 470 of 2004

Date of Hearing: 1st September 2006

Date of Sentence: 4th September 2006

T. Thorpe for the Crown

I. Khan for the Prisoner

SENTENCE

Kabui, J. You were convicted by this Court on 2nd August 2006 for raping Anita on 27th July 2004 in a house at Panatina. It is an offence which carries a maximum penalty of imprisonment for life. You had therefore committed a very serious offence. However, imprisonment for life is the maximum penalty that may be imposed for the offence of rape. There is however a discretion which the Court exercises which may result in a lesser sentence for you. In rape cases, whatever lesser sentence is imposed will inevitably be a custodial sentence. The discretion which the Court exercises would largely be determined by the facts of each case. That is, are there aggravating factors, if any, to be considered? Similarly, are there mitigating factors, if any, as well to be considered? The balancing of these factors will determine the manner in which the discretion is to be exercised by the Court.

One of the aggravating factors in your case is that Anita was a student and was younger than you were at the time of the rape. Secondly, she was just a visitor to the house where you were at the relevant time. She was the only female in the house apart from yourself and Andrew Teitaka. You are stronger than Anita in terms of physical strength. Thirdly, what you did to her had caused her to bleed badly and she had to be treated in hospital for her injury though the injury was described by Doctor Maesukanar as superficial laceration in the vagina. You do have one previous conviction of a sexual nature in 2003 for which you were sentenced to imprisonment

for three months by the Magistrate Court. You committed rape upon Anita within eleven months of your previous conviction. The clanging of the prison gates would have still been fresh in your mind when you raped Anita.

In mitigation, your Counsel had urged me to take into account the fact that there had been a delay in the prosecution of the case against you. There was indeed a delay in your case but it is not substantial in nature. Your Counsel also urged me to take into account the fact that you might not be able to see your former partner and child in Australia for the foreseeable future because you would have had a criminal record against your name and would not be allowed to enter Australia. Whilst that is your claim, there is no evidence to show that you are still in close contact with the woman you claimed to be your former partner. It is also not clear in what circumstances your child had been conceived. There is no evidence to show that your claimed relationship with her is a genuine one. Any stigma or shame that flows from your conviction and sentencing is one of your own making. You will and can blame no one for it. You were a member of the Scout Movement when you committed the offence of rape.

Your Counsel suggested that the sentencing range for you should be between three to five years imprisonment. He said the force you used towards Anita was minimal and the injury you caused was superficial though he admitted the bleeding that followed was traumatic. Your Counsel cited a number of cases in this jurisdiction where various sentences of various lengths had been meted out for rape cases.

The circumstances in which past rapes were committed in this jurisdiction were never exact so that no sentences in terms of severity or leniency can be exactly the same in rape cases. In terms of differing sentences in rape cases, the Court in **R. Daley** (1986) 8 Cr. App. R. 429, in referring to the case **Billam**, said-

"...It is to be remembered that guidelines are guidelines. They do not completely bind the discretion of this court. This court is entitled on the facts of any particular case to assess all the circumstances..."

(Also see page 2191, Encyclopaedia of Sentencing Practice). The guidelines to sentencing in rape cases were discussed in **R. Ligiau and Dori** [1985/6] SILR 214 in this jurisdiction in which Billam's case was cited.

In your case, you had met Anita previously but only briefly so that your acquaintance with her was but cursory. The fact is that you were both strangers to each other despite the previous introduction by Elrina and being in the same house with others one weekend. In her evidence, Elrina said you sat next to her small brother and you were talking generally to everyone in the house at that time, contrary to what you said in your evidence. Anita had slept with Elrina and her small brother in a different room from the boys' room in which you had also slept. You left the house on Sunday morning and Anita left the house later but separately. In her evidence, Elrina said that some of Anita's clothes were in Elrina's bedroom and some were in the master-bedroom. Anita came back to Oge's house the day you raped her to collect her clothes because she was returning home the next day. That was a legitimate reason for going back to Oge's house. She was not going there to meet you or to have sex with you. There is no evidence showing that you were in the house waiting for her and she knew that and that she had arranged to come to meet you. Your meeting her in Oge's house was not a date. Your meeting her on the day you raped her was coincidental but fateful for Anita.

You took that opportunity to indecently assault her and then you raped her without her consent. You had told Andrew Leitaka to keep a look-out for you. You were in a hurry to carry out your intention no matter what Anita thought or felt. You were so intent upon doing so that you locked Anita inside the room and raped her there thus causing her to bleed. You were persistent, forceful, uncaring and selfish in your attitude. You were an adult and you took advantage of Anita being alone in the house with you and Andrew Leitaka. You took her for fare game. The trauma you caused her by your action was dreadful. She vomited, fainted twice and had to be admitted into the Central Hospital for treatment before she was released. Your Counsel stressed that the force you used was minimal. Perhaps what your Counsel meant was that the

force you used to overcome Anita's resistance was minimal in the sense that you used no weapons or caused some physical injuries in the course of facilitating sexual intercourse to take place without Anita's consent.

You must remember that you went into the room where Anita was and you locked the door and pushed her down to the floor, removed her clothes, your own and raped her in a violent and hurried manner and caused her to bleed.

The manner in which you approached Anita for sex was animalistic in the sense that you decided to have sex with her and proceeded forthwith without any second-thoughts or hesitation oblivious to her health and dignity as a human being. The appropriate sentence in your case is six years imprisonment. I order that you be sentenced to six years imprisonment. Your sentence will run from the date you went into custody.

You are of course entitled to appeal this sentence.

Frank O. Kabui
Puisne Judge