

PUBLIC PROSECUTOR

V

JACK ANTAMAT

Date of Sentence: 10th October, 2018
Before: Fsam
In Attendance: Public Prosecutor – Mrs Pakoasongi_B
Defence – Mrs Karu_K

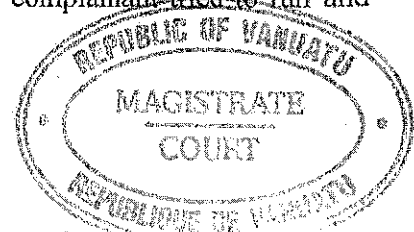
SENTENCE

Introduction

1. Mr Antamat pleaded guilty to one count of domestic violence contrary to section 4 and 10(1) of the Family Protection Act No. 28 of 2008, which constitute a maximum penalty of 5 years imprisonment and/or fine of VT100, 000. He is convicted of this count accordingly.

Brief Facts

2. On the 12th of June 2018, Mr Antamat was drunk when the complainant wife and his two children decided to follow the complainant's aunty to Namburu after dinner. He saw them walking to Namburu and followed after them. Later in the evening he had wanted for the complainant and the two boys who are currently 7 and 4 years of age, to return back to their home with him at Simbolo but one of the sons fell asleep and the complainant decided to stay over at her aunty's house for the night. That same night, the defendant returned with threats to kill whoever swore at him when he was returning home, and proceeded to threaten the complainant with her aunty by killing them with a piece of wood. The complainant tried to run and



hide in her aunty's room, but the defendant pushed the door open, dragged the complainant outside by the neck of her shirt and pulled her back causing the complainant to hit her head against a pile of firewood. The complainant managed to run away and the defendant grabbed his two boys threatening to kill his two sons and himself. A medical report was produced showing cut on the complainant's left eyebrow following the assault and a swollen face.

Submissions

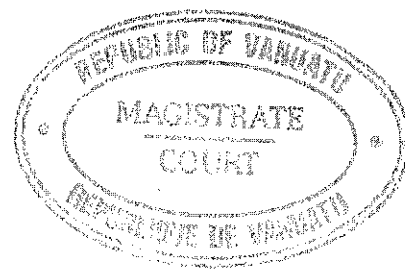
3. Mrs Pakoasongi referred to her submissions filed on the 1st of October, 2018, where she cited *PP v Malliwan* [2018] VUSC 29. I note the similarity with the case before me, being that violence from both defendants happened against their wives and in the presence of children in the relationship. I also note the differences in the circumstances, particularly in relation to the extent of violence committed, where violence in *Malliwan* was more serious compared to the case before us.

4. She submitted that a starting point of 2 years is appropriate for Mr Antamat.

5. Mrs Karu relied on her submissions filed yesterday, the 9th of October, 2018, where she agreed with all facts submitted by the Prosecution and agrees with the case of *Malliwan*. Mrs Karu also agrees with all aggravating factors put forward by the Prosecution and also submits an appropriate starting point of 2 years making reference to the case of *Public Prosecutor v Andy* [2011] VUCA 14.

6. In relation to the factors personal to Mr Antamat, as set out in 'step 2' of the *PP v Andy*, Mrs Karu submitted in mitigation that Mr Antamat is a 30 year old man from Malekula, has a wife and 2 children, molds blocks and sells them for a living, has no prior convictions and is remorseful for his action. Further factors put forward in mitigation are that Mr Antamat cooperated with the police and was in pre-custody from the 14th of June 2018 to 12th of July 2018, a total of 28 days or a month. And that whilst on bail he had complied with his bail conditions.

Starting Point



7. In light of the 'first step' consideration in *Andy*, I find that the act of domestic violence by Mr Antamat is serious with the aggravating factors being Mr Antamat was drunk and out of control, that his violent act was triggered by someone telling him to "shut up" and he took out his anger and frustration on his wife and aunty and children, by threatening them with use of knife(s), and wood, and threatening to take the lives of his two sons and himself. That Mr Antamat has a history of being violent towards his wife and sons, coupled with his inability to control his anger and his constant dominant control over his wife and children. I set a starting point of 15 months imprisonment for Mr Antamat's offending.

Guilty Plea

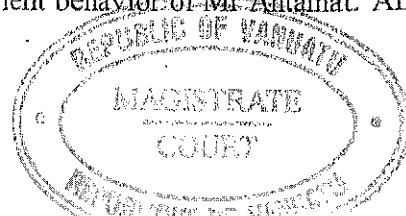
8. I consider the fact that Mr Antamat had refused to enter a plea on the last plea date, the 21st of September, 2018, where it was obvious he did not want to take accountability of his offending and sought this court's direction in considering a withdrawal letter by the complainant.

9. For the above reason, and although Mrs Pakoasongi submitted the Defendant entered a guilty plea, and Mrs Karu submitted the defendant is entitled to a 1/3 reduction, by making reference to *PP v Gideon*, I find for this particular defendant that he will only be allowed a 20% deduction instead for his guilty plea.

Sentence

10. Taking into account the nature of violence in this case, I accept that Mr Antamat's violent acts towards the complainant and their two children over some time, has placed and will continue to cause fear within the two young boys who have obviously become victims along with their mother, of Mr Antamat's violent behavior, if an appropriate punishment is not given for such offending.

11. I also accept Mrs Pakoasongi's submission that Mr Antamat has a history of being violent and abusive towards his wife and sons and it is not the first time this incident has happened, as the complainant wife had left Santo back in 2017 to come to Vila with their 2 sons to get away from the violent behavior of Mr Antamat. And



so I find the nature of violence is serious and the only appropriate sentence is imprisonment.

12. I consider the 20% deduction for Mr Antamat's guilty plea, and a further deduction of 1 month is made in light of only the following mitigating factors, particularly, Mr Antamat's remorsefulness, his clear history (no priors), and his one month pre-custody, leaving an end sentence of 9 months imprisonment. Other mitigating factors are not sufficient to entitle Mr Antamat to any further mitigation.

Suspension of Sentence

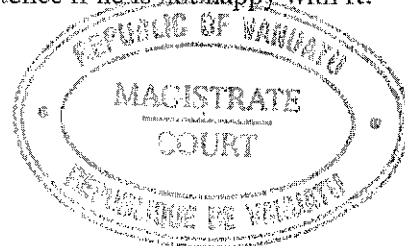
13. I consider submissions from both Counsels in respect of suspended sentence and in view of the circumstances of the case, the nature of violence, and factors personal to Mr Antamat, I agree and order the suspension of sentence of 9 months imprisonment for 1 year in pursuant to section 57(1) of the Penal Code.

14. Further to his suspended sentence, I order a sentence of supervision in pursuant to section 58G and 58H for a period of 9 months.

15. Mr Antamat is warned not to reoffend within the next 1 year or his suspended sentence will be automatically uplifted and he must serve the term of prison sentence imposed against him accordingly.

16. This sentence is appropriate to deter Mr Antamat and other likeminded perpetrators of violence that violence against immediate family members is not an acceptable behavior throughout Vanuatu, and that any person(s) committing acts of violence must be punished accordingly to safeguard not only the victims of violence but the community as well. This sentence is also appropriate to allow Mr Antamat and public at large to realise that there is a measure of accountability that must be taken up by any perpetrators of violence, and that they must be dealt with by the full force of law.

17. Mr Antamat has 14 days to appeal his sentence if he is not happy with it.



DATED at Port Vila this 10th day of October, 2018.

BY THE COURT



Magistrate

