

**IN THE MAGISTRATES COURT
OF THE REPUBLIC OF VANUATU**
(Criminal Jurisdiction)

**Criminal Case No.
684/24MC/CRML**

PUBLIC PROSECUTOR
V
JOFROBUL MASSINGMEN

*In Attendance: Mr. Solomon Asang for the State
Ms. Barbara Taleo for the defendant*

SENTENCE

A. Introduction

1. Mr. Jofrobul Massingmen pleaded guilty on the charges of domestic violence and breach of family protection order.
2. He is therefore convicted as charged.

B. Facts

3. The complainant is a member of the defendant's family namely Jacklin Naki.
4. It was alleged by the complainant that on 4 September 2023, she obtained a Family Protection Order from the Magistrates' Court at Lakatoro against the defendant for some violence she had received from the defendant.
5. In the order 1 and 3 of the Protection Order, the defendant is restrained from perpetrating assault, threatening nor verbally abusing the complainant. The order further restrained the defendant from approaching the complainant in a distance of 100 meters at her place of residence including any places she wishes to go to.

6. The Police officers in Lakatoro had served the order on the defendant and explained the orders and the consequences that may follow in the event that the defendant fails to comply with it.
7. On 17 December 2023 while the order of the Court remained in effect, the defendant approached the complainant at her residence at Mahe village while retaining an iron bar in his possession.
8. The defendant advanced towards the complainant and shouted at her causing extreme fear on the complainant.
9. The police arrested the defendant and upon cautioning him, he admitted the offending.

C. Sentence starting point

10. The maximum penalty of domestic violence is 5 years imprisonment or VT 100,000 fine and for breach of protection orders, 2 years imprisonment.
11. There are no mitigating aspects of the offending. The aggravating factors are:
 - The offending occurred in the confine of the complainant's home where she is entitled to feel safe and secure.
 - The recurrence of the violence on the complainant.
 - Offence was committed without provocation.
 - Breach of trust in the family unit.
 - Breach of Orders of the Court.
 - The complainant is a woman who deserved full protection from men.
12. In considering the aggravating factor, I set a starting point of 12 months imprisonment.

D. Deductions for Guilty Plea

13. The defendant pleaded guilty at first opportunity. He is entitled to one-third reduction.
14. This flows from his prior admissions to the Police at cautioning. He is therefore entitled to one-third reduction of his starting sentence, which is 4 months.

E. Personal Factor

15. The defendant is 25 years of age and is born and raised in the village of Mahe in Malekula Island.
16. He is married and has one child.
17. He sustains his young family through gardening.
18. He takes care of his old and sick mother.
19. He expressed remorse for his actions.
20. Upon his arrest in Malekula, he was flown to Santo where he was remanded in custody for over a month.
21. For his personal factor, I make a further discount of 3 months.

F. End Sentence

22. The sentencing principles achievable in this case amongst others expressed in *Public Prosecutor v Vahirua* [2018] VUSC 15 are to hold you accountable for your conduct, to denounce your criminal conduct, to protect the community, to promote sense of responsibility for the harm done and to assist in your rehabilitation and re-integration.
23. Taking into account all matters in relation to all matters aggravating and mitigation personal to your offending, the end sentence imposed on your offending is 5 months imprisonment.
24. I note from the defence counsel's submission that the defendant takes full responsibility in provisioning for food and other necessities to support the welfare of his family including his mother.
25. The defendant is remanded in Luganville Correctional Center for 5 weeks until his appearance in Court today.
26. On the foregoing, his imprisonment sentence is suspended for 1 year.
27. This means he must not re-offend within 1 years.
28. If he reoffends again within 1 year, this suspended sentence will be lifted and he will serve this sentence together with any other sentences imposed on him for his re-offending.
29. For completeness, I also order VT 5,000 fine and VT 2,000 prosecution cost to be paid in 30 days from today's date.
30. The Officer in charge of the Correctional Center in Luganville, is to release the defendant forthwith.

G. Appeal

31. He has 14 days to appeal to the Supreme Court if he is not satisfied with this sentence.

DATED at Luganville, this 7th day of March 2024

BY THE COURT



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MOSES PETER
Senior Magistrate

