



Judge 8/97

IN THE SUPREME COURT
OF THE REPUBLIC OF VANUATU
HELD AT ISANGEL, TANNA

Criminal Case No. ⁴⁷ of 1997

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

-Vs-

GEORGE NAHIOTAN

Coram: Oliver A. Saksak, Judge

Mr Graham Bihu, State Prosecutor for Public Prosecutor.
Mr Stephen Joel, Public Solicitor for the Defendant.

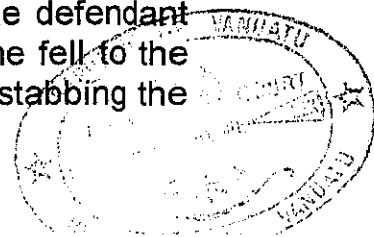
JUDGMENT

The defendant was held in Police custody from 28th March 1997 and appeared before this Court on 4th June 1997 initially on a charge of Intentional Homicide contrary to section 106 (1) (b) of the Penal Code Act [CAP. 135].

Before the charge was read and the defendant asked to plead, the State Prosecutor sought leave to amend the charge to section 106 (1) (a). There being no objection by the Public Solicitor the Court granted leave and the charge was amended accordingly and read to the defendant. He pleaded guilty.

The brief facts of the case are that in the afternoon of 28th March, 1997 the deceased, Mary Kasso and her husband, the defendant left Erwarren Village, South Tanna on foot and were going back to their own village at Lenapuas.

Along the way the defendant asked the deceased for sex. The deceased refused and told the defendant that on reaching their house she would pack her clothes and return to South Tanna. This made the defendant very angry and he hit the deceased's head so hard that she fell to the ground. At this point the defendant took a knife and began stabbing the



deceased. They were both struggling. The deceased tried to remove the knife from the defendant. They rolled down a slope and at the foot of the slope the defendant overpowered the deceased. He pushed the knife down the right side of the deceased's neck and held it in place until she died.

The defendant walked through the bushes and arrived at Isangel Police Station where he surrendered willingly to Police at about 6:10 p.m in the evening. He admitted killing his wife out of anger.

The Police arrived at the scene of the killing on or about 11 o'clock in the night with a doctor. The deceased had been dead several hours.

A post-mortem revealed a large 2 centimetre full thickness wound on the right side of the deceased' neck reaching as deep as the cervical spine. The carotid artery and jugular viens were transected. The doctor concluded that his wound was consistent, with a penetrating knife wound.

The defendant through his defence counsel gave a some what consistent story. His version of facts reveal that he acted out of fierce anger when the deceased refused him sex and told him that she would pack her clothes and return to south Tanna to live with a man with whom she had had love affairs. Additionally the defendant was told by the village chief that his wife, the deceased had had love affairs with two men. That there had been a meeting of reconciliation and that the deceased had said during that meeting that she was not married. The two men killed one pig each and the deceased killed one pig for the defendant as a gesture of regret. In addition there were gifts of Kava one each by the men and one head by the deceased. This was customary settlement over the love affairs of the deceased. The defendant through his counsel told the Court that it was the report of the deceased love affairs coupled with jealousy that made him "cranky" and he killed his wife although he never meant it. He said he realised what he did was wrong but that it was too late and that he regretted very much for what happened.

In mitigation Mr Joel invited the court to take account of the following :-

(a) The defendant's voluntary surrender to and co-operation with the Police.

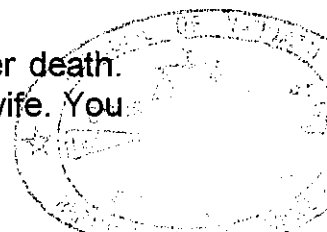
(b) His voluntary admissions to the Police and in Court.

(c) His clean record.

(d) That this was not his usual character.

I took these factors into consideration on 5th June, 1997 when I announced the verdict of the Court: This Court finds you guilty of killing your wife contrary to section 106 (1) (a) of the Penal Code Act on your own plea of guilty.

You admitted stabbing your wife out of fierce anger causing her death. You used a knife and stabbed her like a pig but she was your wife. You



knew the reasons for which you killed her. You were obviously very cross and probably provoked by what she told you when she refused to have sex with you. But that was not a good enough reason why you should kill her in the manner that you did. You have done a very terrible and horrible thing.

I am glad to hear that you now realise that you did the wrong thing, that what you did only denies you the privilege of having a wife. You cannot blame anybody else for this but yourself.

There was a custom settlement in which three pigs were killed and three heads of kava given to you by the 2 men and the deceased. You could have forgiven your wife then but obviously you did not. You certainly violated the significance of that custom ceremony and that is a sad thing to see happen.

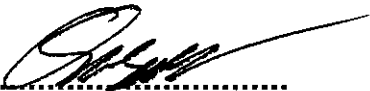
Before sentencing you I take into account the fact that you surrendered to the Police willingly and voluntarily, that you made voluntary admissions to the Police and in the Court, that you have regretted what happened and the possibility that you will not reoffend, and your clean past record.

I therefore sentence you to a total of nine years imprisonment beginning from the time that you were taken into custody.

You have a right to appeal and you have 14 days.

DATED at Port Vila this 6th Day of June 1997

BY THE COURT.


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OLIVER A. SAKSAK
Judge of the Supreme Court

