



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

Criminal Case No. 10 of 2010

**PUBLIC PROSECUTOR
V.
NALING WILLIE IKOIKO**

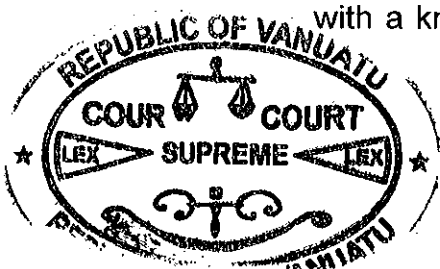
Coram: Justice N. R. DAWSON

Date of Decision: 24th May, 2010

Counsels: Mr. G. Takau for Public Prosecutor
Mr. J. Napuati for the Accused

SENTENCE

1. Mr. Naling Willie Ikoiko appears in Court today for sentencing on a charge of sexual intercourse without consent. During 2009 the complainant, who at that stage was 2 months pregnant, lived in Lowean Village. She decided to go down to the river to wash and swim and when she got close to the river she came across the defendant. Mr. Ikoiko is related to the complainant as he is the cousin of her biological father and effectively he is her stepfather. As the complainant approached, the defendant asked her if he could have sex with her. She said no and notwithstanding that the Defendant grabbed her tightly, removed her clothes, positioned her on her knees and pushed his penis into the anus of the complainant. The complainant was crying at the time because she felt pain while the defendant was having anal sex with her. When the defendant finished he told the complainant not to tell anyone or otherwise he would assault her with a knife. He also told her that he will always eavesdrop on her when



she was with friends so she should not tell anyone what happened that day.

2. Mr. Ikoiko, I have read the submissions of the Public Prosecutor and also from your counsel. I have also read the Probation Report. It is necessary when I sentence you to take into account the interests of the victim of this matter. The other factors I need to take into account are those which are set out in the case of the Public Prosecutor v. Ali where the Court of Appeal quoting from the case of Scott and Tula said:-

“The offence of rape is always a most serious crime. Other than in wholly exceptional circumstances, rape calls for an immediate custodial sentence”.

And it then goes on to say:-

“A custodial sentence is necessary for a variety of reasons. First of all to mark the gravity of the offence. Secondly to emphasize public disapproval. Thirdly to serve as a warning to others. Fourthly to punish offender, and last but by no means least, to protect women.”

3. There are aggravating features to your offending, the first aggravating factor is that you threatened violence to the complaint should she tell anyone what had happened, and there was also a high degree of cruelty in your offending in that the complaint was obviously in pain while you were offending against her but you continued your offence. There was also the abuse of trust and vulnerability of the victim. You raped your step daughter who was 2 months pregnant at the time and you abused your position of trust as a step father to offend against her. You should be deeply ashamed for what you did.
4. There are mitigating factors to your offending. I am told that you are 73 years of age but you seem to be a very healthy vigorous man for a person.



said to be of that age. In addition you entered a guilty plea at an early stage and have indicated remorse. You have no previous convictions.

5. The Probation Report notes that you have performed a custom ceremony prior coming to Port Vila and you made gifts to the victim and the Chief of 2 pigs, a cow, and 8 stumps of kava. The Probation Report says that you show insight into your offending and you realize that what you did was shameful and you felt sorry for the victim.
6. The appropriate sentence for imprisonment for this offence in my view calls for starting point of 5 years imprisonment. I have to take into account the aggravating factors that I have mentioned, and it is appropriate increase that to a term of imprisonment of 7 years. After allowing for mitigating factors I have mentioned you are convicted and sentenced to a term of imprisonment of 4 years and 6 months. I understand that you have been in prison on remand for the last 7 months and therefore you have 3 years and 11 months still to serve as from today.
7. You have the right to appeal this sentence. For any appeal you must lodge a notice of appeal within 14 days of today's date.

DATED at Port Vila, this 24th day of May, 2010.

BY THE COURT


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N. R. DAWSON
Judge.

