

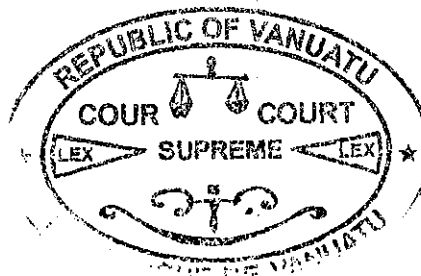
PUBLIC PROSECUTOR VS TRENIS TABI

Coram: Justice Dudley Aru

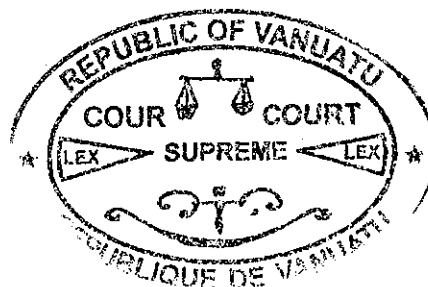
Counsel: Mr Ken Massing for Public Prosecutor
Ms Jane Tari for the Defendant.

SENTENCE

1. Trenis Tabi you pleaded guilty to one count of sexual intercourse without consent contrary to section 90 b) and 91 of the Penal Code [CAP 135] on 14 April 2015 and you were convicted accordingly. You are here today to receive you sentence .
2. The brief facts of your offending as accepted by defence counsel are that the incident occurred on 26 December 2014 at Leranbeka village on Central Pentecost. At around 1pm in the afternoon you met the complainant on the road and you had a stone in your hand and threatened the complainant to stop and talk to you or you would throw the stone at her . The complainant stopped then you grabbed her hand and dragged her into the bushes . She was already three months and two weeks pregnant at that time . She tried resisting and calling for help but could not free herself . You took off your clothes and undressed her then had sex with her until you ejaculated .
3. You then ran away leaving the complainant behind . She then made her way home physically shaken . She met Peter Ben and reported the matter to him and he took her to her parents and reported the incident to them .



4. When you were arrested and cautioned by the police you admitted the allegations .
5. Threatening a girl and having sex with her against her will is a is very serious matter. As the Court of Appeal said in Public Prosecutor v Scott [2002] VUCA 29:
“...rape calls for an immediate custodial sentence.”
6. The sentence I impose on you today is punishment for your crimes and to show public disapproval of such offences. It serves also as a warning others.
7. Your personal details extracted from the presentence report are that :
 - You are from Vanwalegaro village in central Pentecost;
 - You are 19 years old and you are the last born in your family out of four children ;
 - You finished your education at year 10 at Ranwadi High School and now earn your living through gardening and investing in kava;
 - You are a member of the Anglican Church and an active member of your community ;
8. You told your probation officer that you committed the offence under the influence of alcohol and you are now remorseful over your actions and willing to take the complainant as your wife when you return home.
9. Factors submitted by counsel for the Prosecution which I take into account as aggravation are :
 - Use of a weapon (stone) to threaten the complainant into submitting to you ;
 - You used force to drag the complainant into the bush ;



10. Defence counsel on your behalf submits that I take account of the following factors in mitigation :

- You are 19 years old and a first time offender ;
- Guilty plea entered at the earliest opportunity;
- You cooperated with the Police and are remorseful ;
- Pre sentence custody of 1 month 25 days be deducted .

11. I adopt a starting point of 6 years imprisonment and make an uplift to 8 years imprisonment in view of the aggravating factors. For your early guilty plea you are entitled to a full one third (1/3) discount of your sentence which is reduced to 5 years imprisonment .Time spent in custody is rounded off to two months is deducted leaving a sentence of 4 years 10 months imprisonment. As a first time offender your sentence is further reduced leaving you with an end sentence of 4 years imprisonment effective from today.

12. You have 14 days to appeal this decision if you are not happy with it.

DATED at Luganville, this 22nd April 2015.

BY THE COURT

DUDLEY ARU

Judge.

