

JOROS LASI-v-REGINA**HIGH COURT OF SOLOMON ISLANDS
(Mwanosalua, J.)**

Criminal Case No. 20 of 2006

Hearing: 4 October 2006

Judgment: 6 October 2006

R Talasasa for the Crown

S. Lawrence for the Appellant

JUDGMENT

Mwanosalua, J: Joros Lasi pleaded guilty to one count of insulting the modesty of a girl in the Magistrate Court in Gizo on 28 July 2004. He was convicted on his plea and sentenced to serve one year in prison. He appeals to this court, alleging that the sentence was excessive.

THE FACTS

The Appellant, Joros Lasi, was a teacher at Noro Primary School. The victim was Maria Butu aged 12 years. The Appellant was her class teacher in 1997. On 27 May the Appellant presented a lesson on the life cycle of all living things to his class. He later assigned to the majority of his students to engage in a class discussion on that subject. The victim and two other girls were however assigned to discuss the human female egg life cycle.

After class, the Appellant instructed the victim and the two other girls to go to his residence at 8am. the next morning. He further instructed the girls that if he was not at home, they were to proceed to the sea front at Baru near Noro Port, where he would wait for them, to further explain the human female egg life cycle to them. The Appellant also told the girls that a test on the topic was set down for the 29 May. He warned them that if they failed to turn up at Baru, they would be given no marks for the test.

On the following morning, the victim and the two girls went to the Appellant's house at 8am. A man at the house informed them that the Appellant had left the house to the seaside. The victim and the two girls left the house and went to the seaside to meet the Appellant.

They saw the Appellant fishing at the seaside on their arrival. The Appellant threw away his fishing gear and started to explain the human female egg life

cycle to the girls. He told the girls that he would take each one of them into the bush close to them to show her the female egg.

He then took the victim Maria Bulu to the bush and told her to remove her clothes. He told her that he would touch her clitoris together with her nipples, as this was the only way to get the human female eggs from the vagina. When the victim heard this, she felt embarrassed and refused to remove her clothes and allow the Appellant to touch her clitoris and nipples. She immediately left the Appellant and ran back to her two friends.

THE APPELLANT'S CASE

The Appellant submits that the sentence of one year imprisonment imposed on him was excessive as he pleaded to the charge. He contends that the appropriate sentence for his offence should have been one of six months imprisonment, instead of one year, being the maximum sentence for the offence with which he was charged.

THE PROSECUTION'S CASE

The case for the prosecution is that the Learned sentencing Magistrate committed no error in imposing the maximum sentence of one year imprisonment on the Appellant. It was the appropriate sentence to be imposed in the circumstance of the Appellant's case.

DECISION OF THE COURT

The Appellant, Joros Lasi, was fifty-two years old when he was convicted by the Court below. He was then the Principal of Noro Primary School. He chose to be in the teaching profession. That profession is in an educational and caring profession. As the principal and teacher at the school, parents and guardians of children at the school expect him to teach sound moral behaviour to his students. He should have been a role model to his students on moral behaviour. But his behaviour towards the victim in this case fell very short of being a role model to the victim. His behaviour towards the victim in this case could be described as heinous, that is to say, morally very bad.

The Appellant was of previous good character. That would have been a mitigating factor in his favour. Unfortunately, for the Appellant in this case, that mitigating factor was not available to him. That was because that impeccable background led the victim to place trust on him as a person of sound moral behaviour when he was out to explain the human female egg life cycle to her. So, for the Appellant, his previous impeccable character had become an aggravating factor rather than a mitigating factor.

The Appellant pleaded guilty in the court below. That plea obviously saved the victim of the embarrassment of appearing as a witness and the trauma of reliving the event. But there was no evidence to show that he was driven by genuine remorse for his behaviour towards the victim to make that guilty plea.

There was a special relationship between the Appellant and the victim in this case. That link was teacher and pupil relationship. That relationship gave the victim and her other friends trust to rely on his sincerity that he would genuinely explain the human female egg life cycle to her and not to abuse her. Unfortunately, he grossly abused that trust. In such situation, the court below was entitled to express, on behalf of the parents, its disapproval of the breach of trust by the appellant.

It is obvious to this court, that the court below, in passing the maximum sentence for the offence on the Appellant, was doing so as general deterrence to teachers with similar impulses that, if they yield to them, they will meet with severe punishment.

In conclusion, this court does not feel that it should interfere with the sentence imposed by the Court below. The Appellant's appeal against sentence is dismissed. The sentence of one year imprisonment imposed on the Appellant on 28 July 2004 is affirmed. I order accordingly.

Francis Mwanalua
Puisne Judge