

IN THE SUPREME COURT )  
 THE REPUBLIC OF VANUATU ) Criminal Case No. 48 of 1992  
 (CRIMINAL JURISDICTION )

HEARD AT LAKATORO, MALEKULA  
 (CENTRAL DISTRICT II)

PUBLIC PROSECUTOR

v

PRESLEY SILAS

CORAM: BEAUMONT, Acting Judge  
 Hiliary TOA For Public Prosecutor  
 Heather LINI For Accused

REMARKS ON SENTENCE

[CRIMINAL LAW - CUSTOM - sentencing and discharge under s42 Penal Code]

The Information in this matter charges the Accused with ABDUCTION (Penal Code, Section 92) and with KIDNAPPING (Penal Code, Section 105(b)).

The Accused has pleaded guilty to the charge of Abduction, which was of his sister. In my opinion, it is proper to accept this plea. The Accused is accordingly convicted of this offence. I pass now to the question of sentence.

It appears that the Accused believed that the Abduction was carried out in accordance with the wishes of his family and in accordance with custom. His sister, then 17, was forcefully taken by the Accused to the home of another man, then aged about 30, and became his wife. She protested and sought to resist. She had just finished her schooling. Three days later, she was rescued by the Police.

About six months afterwards, she went to Vila, where she now lives with a relative.

It appears that the Accused and his family still hope that she will marry the man in question.

The Accused is now aged 36. He is married with two children and has recently obtained employment at a local Plantation.

This is the Accused's first offence and it seems that his sister received no injuries at the time of abduction. Moreover, the Accused has always admitted his guilt. I take these matters into account in favour of the Accused. On the other hand, abduction of a young woman is a serious matter. It must be punished appropriately so as to indicate the disapproval of the justice system.

In these circumstances, it is appropriate, in my view, to proceed under Section 42 of the Penal Code and, instead of passing sentence, to Order the Accused to appear for Sentence, if called upon to do so, upon certain conditions being fulfilled.

I Order that, during the period of two years commencing today (1/6/93), the Accused appear for Sentence, if called upon to do so, in the event that he fails -

- (i) to execute within a reasonable time and,
- (ii) to perform each of the conditions of - a bond in writing containing the following conditions:
  - (a) that, in the said period, he will not take his sister away or detain her against her will with intent to cause her to be married; and
  - (b) that in the said period, he will not force or compel his sister to go from any place to another place.

Since no evidence was offered on the lesser charge of Kidnapping, that charge will be dismissed.

I Order the Accused to pay the Public Prosecutor's Costs, of vt5,000, by two instalments of vt2,500, the first instalment to be paid on 1 August 1993; the second instalment to be paid on 1 October 1993.

Dated this 1st day of June 1993

B.A. Beaumont  
Acting Judge