

PUBLIC PROSECUTOR -VS- JACKLYNE TARIMIALA

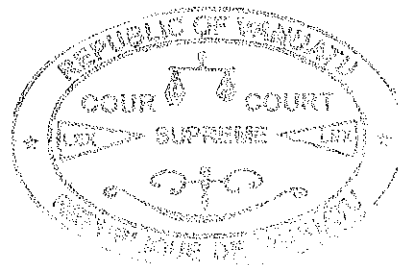
Coram: Mr. Justice Oliver A. Saksak

Counsel: Damien Boe for the State
Andrew Bal for the Defendant

Date of Plea and Sentence: 4th June 2015

SENTENCE

1. Jacklyn Tarimiala is charged with one count of Obtaining Money by Deception contrary to section 130B(1) of the Penal Code Act Cap.135 (the Act). The penalty for this offence is 12 years imprisonment.
2. The Complainant is Eveline Kanas who complained that during the period from May to December 1999 on different dates this defendant had obtained moneys totalling up to Vt100.000 by deception and personally misused the moneys.
3. When the charge was read to the accused today, she pleaded guilty. As such the Court recorded a conviction against her.
4. The facts of the case relied on by the prosecution are annexed to the Amended Information dated 28th May 2015. As these have been admitted and accepted by the defendant it is not necessary to restate them.
5. Both Mr. Boe and Mr Bal agree that submissions be made orally and that the Court proceed to sentence the defendant today. The reasons for this are that (a) the offending occurred in 1999 and (b) the defendant was convicted in December 2013 for the same offence but with a different complainant and for the sum of VT140,000. The case is Criminal Case No.6 of 2013 Public Prosecutor v. Jacklyne Tarimiala [2013] VUSC 213. Mr Boe submitted the case along with the case of Public Prosecutor v. Martha Metsan [2012] VUSC 263 to assist the Court decide on the appropriate sentence for the defendant.



6. Mr. Bal submitted in mitigation that –
- (a) Having pleaded guilty on first available opportunity the defendant is entitled to a 1/3 reduction.
 - (b) She has shown remorse by her willingness to repay the VT100,000 complained of and for which she has admitted liability.
 - (c) She is a first-time offender regardless that she was charged with the same offence which she admitted and was sentenced in 2013 by the Chief Justice.
7. Mr. Bal invited the Court to adopt the same sentence imposed by the Chief Justice in Criminal Case No.66 of 2013 PP v. Jacklyne Tarimiala.
8. I accept that the defendant's sentence should not differ from her earlier sentence in 2013 because the facts and circumstances that gave rise to the need to demand moneys by deception were the same. It is only the complainant and the amount of money involved that were different.
9. I therefore impose on you Jacklyne Tarimiala for one count of obtaining moneys from Eveline Kanas by deception a sentence of 8 months imprisonment. This sentence is however suspended for a period of 2 years from the date of this sentence. During this period you must not commit this offence or any other criminal offence. If you do, you will automatically go to prison to serve your 8 months sentence.
10. Finally I order that you repay the sum of Vt100,000 to Eveline Kanas within a period of 12 months from the date of this Order or Sentence. You must make payments to the office of the Public Solicitor so that they can keep records of payments and inform the Prosecution and the Court accordingly.
11. You have a right to appeal within 14 days if you are not happy with the sentence.

DATED at Port Vila this 4th day of June 2015.

BY THE COURT


OLIVER A. SAKSAK

Judge

