

**PUBLIC PROSECUTOR – VS – GIBSON BOVU
JAMEN HANGO
REX HINGE**

Coram: Justice Saksak

Counsel: Simcha Blessing for the Public Prosecutor
Henzler Vira for the three Defendants

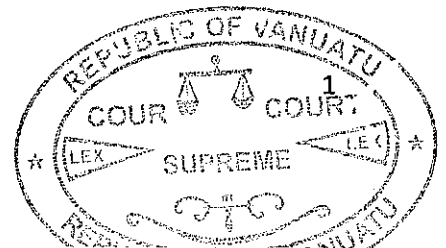
Date of Plea: 25th April 2016

Date of Submissions Hearing: 26th April 2016

Date of Sentence: 28th April 2016 (At Lavatu, North Pentecost)

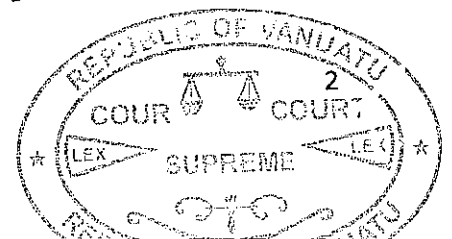
SENTENCE

1. Gibson Bovu, Jamen Hango and Rex Hinge on your re-arraignment on Monday 25th April 2016 each of you pleaded guilty to one charge of false imprisonment (Count 1), one charge of act of indecency without consent (Count 2) and Jamen Hango, you pleaded guilty to one Count of threats to kill (Count 3). These charges were laid under Sections 118, 98 and 115 of the Penal Code Act Cap 135 (the Act).
2. You all should know that these are serious offences because false imprisonment carries a maximum sentence of 10 years imprisonment, act of indecency without consent carries a 7 year maximum imprisonment and threats to kill carries a maximum of 10 years imprisonment.
3. Your victim was and is a teacher of 20 years of age. She was going home after a day's work in the afternoon of 12 November 2015. You all were heavily intoxicated. You met her on the road and Jamen Hinge grabbed on her left hand and said words to the effect: "Don't be ashamed, if you run I will tell the boys to kill you," Gibson Bovu then chocked



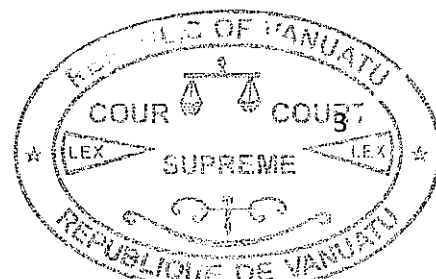
the complainant on her neck and later pushing her to the ground, you dragged her along the rocky soil to a location a few metres from the main road. This happened after you had torn off her clothes from her chest down. She sustained and suffered severe injuries as a result. Gibson Bovu continued assaulting the complainant by punching and kicking her all over her body. Then you touched her breasts and rub her vagina but with her clothes on. She then lost consciousness. Fortunately a relative came along at that point and told you to stop doing what you were doing. You all then left and Mr Bule had to carry his relative home in her current condition and state. When she regained consciousness, she realized she was naked and was distressed mentally and emotionally as a result. She felt so humiliated and ashamed that she now asks for some compensation from all of you.

4. It appears from the facts that you Gibson Bovu were the main perpetrator of these offences. You explain your reason in your Report that because your partner had left you, it was your intention to make the complainant your wife. It was when she refused your proposal that you and your two colleagues did all these to her. And it was done while you were all under the influence of liquor.
5. In assessing and determining the appropriate sentences the Court should impose on each of you, I have considered the following cases cited by both the Prosecutions and defence counsel:
 - a) Public Prosecutor v. Urinmal [2013] VUCA 23
 - b) Public Prosecutor v. Wenu [2015] VUCA 51
 - c) Public Prosecutor v. Kell Walker [2007] VUCA 12
 - d) Public Prosecutor v. Silas Thompson [2002] VUSC 83
 - e) Public Prosecutor v. Malep [2015] VUSC 91, and
 - f) Public Prosecutor v. Berry Kaloran [2014] VUSC 14
6. I have also considered the aggravating features of your offendings which add seriousness to these already serious offences. All three offences were committed in and as a package. The lead offence in my view is false imprisonment. For this offence in Count 1 each of you is sentenced to 3 years imprisonment as the starting point. For repetition of offences as act

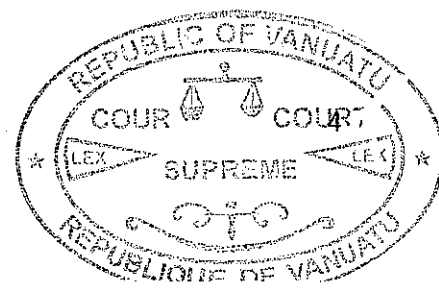


of indecency without consent, each of you is sentenced to 12 months imprisonment concurrent to the 3 years imprisonment for false imprisonment. And for threats to kill, Jamen Hango, you are sentenced to 16 month imprisonment as the starting point but is made concurrent with the sentence for false imprisonment and act of indecency without consent.

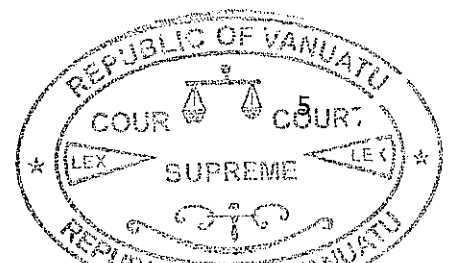
7. For the aggravating features there will be an uplift of 2 years increasing your sentences to 5 years imprisonment as a concurrent sentence. The purpose of imposing this high punishment for each of you is to –
 - a) Mark the gravity of your offendings.
 - b) Mark the Court's and public condemnation of your unlawful actions.
 - c) To deter each of you and other men who might want to act in a similar sort of way in future.
 - d) To protect women and young girls; and
 - e) To punish you adequately.
8. Each of you is sentenced to 5 years imprisonment as a concurrent sentence for all three offences in Counts 1, 2 and 3.
9. In mitigation I have considered the information contained in each of your pre-sentence reports submitted by the Probation Officer. I consider and have decided that each of you are entitled to –
 - a) $\frac{1}{3}$ reduction for guilty pleas to the amended charges at first available opportunity. This is a period of 1 year and 8 months deducted from 5 years, leaving the balance at 3 years and 4 months.
 - b) For substantial customary ceremony and settlement performed by your relatives on 19 November 2015, young ages, remorse and clean past records, there will be a further reduction of 12 months or 1 year from the balance of 3 years and 4 months. That leaves the balance of the sentence at 2 years and 4 months, which is the end sentence for each of you.



10. I consider that your sentences should be suspended for a period of 2 years under Section 57 of the Act. This means that you will not have to go to prison today. The Court notes from your pre-sentence reports that each of you have been remanded in custody since 12 December 2015. That is a period of more than 4 months. You have by now had a taste and a glimpse of what it is like to be in prison. Whilst that period should serve as part of your punishment and sentence, it should be a constant reminder to each of you that during the period of 2 years in which the suspension of your sentences operate, each of you must behave yourselves, keeping the peace in the community and must not re-offend by committing these offences or any other criminal offences for which you are charged and convicted. If you do, you can expect to go to prison and serve out your sentences of 2 years and 4 months.
11. In addition to your sentences of imprisonment fully suspended, I Order that each of you will perform community service of 200 hours under Section 58 N of the Act. Under Section 58 P each of you is required to perform your 200 hours of community work within 12 months from the date of this sentence. Each of you must report immediately to the Probation Officer for directions.
12. Finally, the issue of compensation. Your victim has requested compensation for her humiliation, physical and emotional harm. She is legally entitled to do that. The Court has power to consider and award a sentence of compensation under Section 40 of the Act. From the facts to which each of you admitted, I am satisfied the victim suffered physical injuries of temporary nature to her knees and other parts of her body. Her clothes were torn and damaged. She suffered emotional harm. She is therefore entitled to compensation in the sum of VT90,000 in cash money. I note that a custom reconciliation ceremony was performed on your behalf by your elders on 19 November 2015 the value of which amounted to VT 170,000. But that was done to mend broken relationships' between families and restore peace and harmony in the communities. It is doubtful that the complainant enjoyed any of that money or pig as a gesture of compensation. If she did, there would be no cause for her requesting compensation to the Court today.



13. Each of you therefore is hereby ordered to pay the sum of VT30,000 within 3 months from the date of this sentence. You each must pay the allocated amount in the first instance to the Community Justice Supervisor, Mr Manaseh Aru. And each of you must pay the sum of VT30,000 on or before 28 July 20 6. The Community Justice Supervisor will collect the compensation payments and inform the complaint accordingly after each payment. Receipts are to be issued after moneys are uplifted by the complainant.
14. Last but not least, the Court Orders that –
- a) Each of you must remain on Pentecost and complete your 200 hours of Community Work, and
 - b) Pay up your compensation amounts of VT90,000 to the Community Justice Supervisor and the Complainant, before each of you may leave your village or Pentecost to travel to Santo or Vila or to any other islands in Vanuatu or overseas.
15. In summary –
- a) **Gibson Bovu**, you are sentenced to 2 years and 4 months imprisonment fully suspended for 2 years on good behavior. You are also sentenced to Community Work for a period of 200 hours to be performed within 12 months from the date of this sentence. And you are sentenced to pay compensation of VT30,000 to the Complainant through the Community Justice Supervisor on or before 28 July 2016. And you must not leave Pentecost until you have done your 200 hours and paid your portion of the compensation amount.
 - b) **Jamen Hango**, you are sentenced to 2 years and 4 months imprisonment fully suspended for 2 years on good behavior. You are also sentenced to Community Work for a period of 200 hours to be performed within 12 months from the date of this sentence. And you are sentenced to pay compensation of VT30,000 to the Complainant through the Community Justice Supervisor on or before 28 July 2016. And you must not leave Pentecost until you have done your 200 hours and paid your portion of the compensation amount.



- c) **Rex Hinge**, you are sentenced to 2 years and 4 months imprisonment fully suspended on good behavior. You are also sentenced to Community Work for a period of 200 hours to be performed within 12 months from the date of this sentence. And you are sentenced to pay compensation of VT30,000 to the Complainant through the Community Justice Supervisor, Mr Manaseh Aru on or before 28 July 2016. And you must not leave Pentecost until you have done your 200 hours and paid your portion of the compensation amount.
16. Those are the Sentences of the Court. Each of you has a right of appeal against your sentence if you do not agree with it, but you should do so within 14 days from the date hereof.

DATED at Lavatu, North Pentecost this 28th day of April, 2016.

BY THE COURT


OLIVER A. SAKSAK

Judge

