

**IN THE SUPREME COURT
OF THE REPUBLIC OF VANUATU**
(Criminal Jurisdiction)

**Criminal
Case No. 22/1946**

BETWEEN: Public Prosecutor

AND: Johnny Tari
Defendant

Coram: Justice Aru
Counsel: Mr. L Young for Public Prosecutor
Mr. F. Tasso for the Defendant

SENTENCE

Introduction

1. Mr Johnny Tari pleaded guilty to one count of criminal trespass, two counts of intentional assault, one count of attempted intentional assault and one count of arson. He now appears for sentencing.

The facts

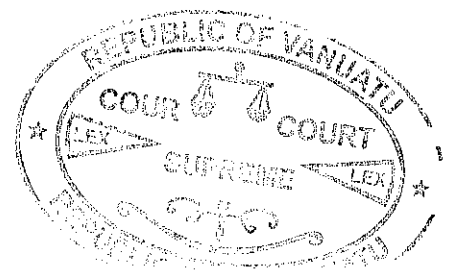
2. The defendant and complainant had been living together previously in a de facto relationship before parting their separate ways in 2021.

Count 1

3. On 22 January 2022 around 5.00 am in the morning the complainant was still sleeping when the defendant entered her bedroom through a window with the intention to assault her.

Count 2

4. Once inside the bedroom the defendant begun assaulting the complainant by kicking her backside. The complainant could not defend herself as the defendant was too strong and continued assaulting her on the body.



Count 3

5. After kicking the complainant the defendant held her by both hands and dragged her body on the floor of the bedroom. As a result she sustained injuries to her hands and knees.

Count 4

6. After dragging the complainant from the bedroom, the defendant took a small knife and attempted to stab the complainant on the left side of her ribs but was unsuccessful as the complainant blocked him resulting in cuts to her left hand.

Count 6

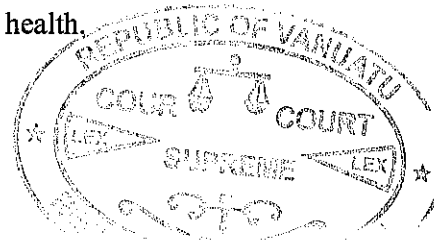
7. The defendant then set fire to the complainant's belongings including her bedding and clothes.
8. The matter was then reported to the police and the defendant was arrested. He was then cautioned and interviewed and admitted the offending.

Starting point

9. When determining the starting point of sentence regard must be had to the maximum sentences available and taking into account any aggravating or mitigating factors of the offending. The maximum sentence available for criminal trespass is 1 year imprisonment. For intentional assault the maximum sentence is 5 years imprisonment which is the same for attempted intentional assault. Arson is punishable by a maximum sentence of 10 years imprisonment.
10. The offending is aggravated by the use of a weapon and there is an element of planning involved. The assaults were repeated and as a result the complainant sustained injuries to her body. There is also loss of the complainant's belongings as a result of the arson. There are no mitigating factors of the offending.
11. The offending arose from a single incident. Considering arson as the lead offence I set the starting point of sentence at 4 years imprisonment.

Mitigation

12. The defendant pleaded guilty at the first availability opportunity therefore the sentence is reduced by a one third discount.
13. A pre-sentence report was filed. It sets out personal factors of the defendant. He is 43 years old from Lolovenue, Ambae and is a first-time offender. He is a year 12 school leaver and also a certified school teacher. He held teaching positions as head master of three different primary schools on Ambae before resigning due to ill health.



14. His chief speaks highly of him. The defendant is a bus driver and sustains his family from income received by driving the service bus. He blames his offending on his inability to control his anger. No custom reconciliation has been performed with the complainant.

15. Taking these factors into account the sentence is further reduced by 12 months.

End sentence

16. The end sentence is therefore 18 months imprisonment on the lead offence. For criminal trespass the defendant is sentenced 4 months imprisonment. He is sentenced to 10 months imprisonment for intentional assault and for attempted intentional assault. The sentences are to be concurrent.

17. Defence counsel submits that the sentence be suspended. In view of the circumstances and particular nature of the crime and character of the offender, I will suspend the sentence for a period of 2 years. In addition, the defendant will perform 250 hours of community work.

18. The defendant has 14 days to appeal if he is not satisfied with the decision.

DATED at Port Vila, this 14 day of October, 2022.

BY THE COURT

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D. ARU
Judge.

