

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

Criminal  
Case No. 23/696 SC/CRML

PUBLIC PROSECUTOR

VS

CHRISTOPHER FRANCOIS BROWN,

GRAESTEN MANUAKE

SIMA ALICK

Defendants

**Date of Pleas:** 6<sup>th</sup> June 2023 and 1<sup>st</sup> November 2023  
**Date of Oral Sentence :** 28<sup>th</sup> November 2023  
**Date of Written Sentence:** 4<sup>th</sup> December 2023  
**Before:** Hon. Acting Chief Justice  
**In Attendance:** Ms Michelline Tasso for the Public Prosecutor  
Mr Henzler Vira for Defnedant 1, Graesten Manuake  
Ms Juliette Kaukare for Defendant 2, Christopher F Brown  
Mrs Kylie Karu for Defendant 3, Sima Alick

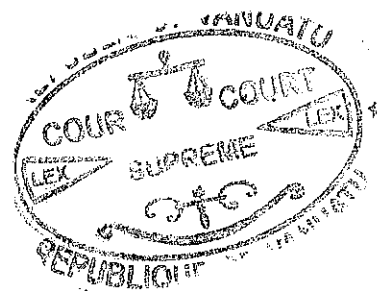
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## SENTENCES

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### Introduction and Background

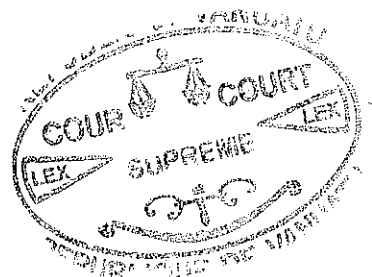
1. The first defendant, Graesten Manuake was charged with 10 charges to which he initially pleaded not guilty on 6<sup>th</sup> June 2023.
2. On the trial date, he sought leave to be rearraigned. Leave was granted and he entered guilty pleas through his counsel Mr Vira to all 10 charges in Counts 1, 2,3, 4, 5, 6, 8,9,10, 11.
3. The second defendant Christopher Brown pleaded not guilty initially on 6<sup>th</sup> June 2023 to the charge in Count 7 of sexual intercourse without consent. On the trial date he too sought leave to be rearraigned. Leave was granted and he too pleaded guilty to the charge.



4. On 6<sup>th</sup> June 2023 the third defendant Sima Alick pleaded guilty to 2 charges in Counts 4 and 5 for which he was jointly charged with the first defendant Graesten Manuake. These charges were sexual intercourse without consent.

### Facts

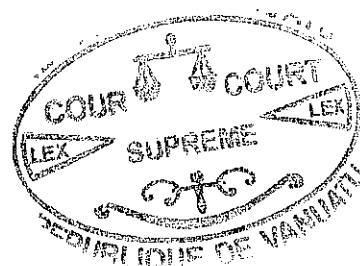
5. During 2018 between January and December 2018 the first defendant threatened his wife Alice Nale two times at heir home at Tamanu area by uttering the following words: " *spos you crae loud ol man oli harem yu, bae mi tes kilim ded yu.*" This was the subject of the charge in count 1.
6. Further he told his wife: " *spos yu no mekem wanem mi talem long yu bae mi kilim ded yu or mekem yu handicap*". This was the subject of the charges in count 3.
7. Again on 27<sup>th</sup> January 2023 at Tamanu Area the first defendant threatened his wife again by uttering these words: " *God heaven I luk mi, bae mi kilim ded you mo taem ol polis oli kam blong karem mi long go long kalabus , taem mi kamaot bae yu ded finis mo bae mi nomo luk yu.*" This was the subject of the charge in count 11.
8. The first defendant also admitted to charges of domestic violence. He admitted to assaulting his wife Alice Nale on first on 19<sup>th</sup> January 2023 when he assaulted her on her back and squeezed her neck. Again on 27 January 2023 he assaulted his wife with his hand. It was during this assault when he also threatened to kill her dead (as in Count 11). These were the subject of the charges in Counts 6 and 10.
9. The first defendant was charged with 3 counts of sexual intercourse without consent. The first time he committed this offence was between January 2018 and 31<sup>st</sup> December 2018 when he had sexual intercourse with his wife Alice Nale without consent. This occurred after he had threatened her he would put her to death twice ( as in Counts 1 and 3).
10. The first and third defendants, were jointly charged with 2 counts of sexual intercourse without consent. These were the subject of counts 4 and 5 to which both defendants admitted. These offences were committed during January and December 2018 at Tamanu Area.



11. After the first defendant had threatened to kill his wife he subjected her to suck their penises and then to having sexual intercourse with her in the presence of each other.
12. Finally the first defendant admitted to 2 counts of complicity in Counts 8 and 10. On 19<sup>th</sup> January 2023 at Tamanu area he facilitated and assisted the second defendant, Christopher Brown and third defendant, Sima Alick to have sexual intercourse with his wife Alice Nale, without her consent.
13. The second defendant admitted to having sexual intercourse with Alice Nale without her consent on 19<sup>th</sup> January 2023 as charged in count 7.
14. And Sima Alick admitted to having sexual intercourse with Alice Nale in 2018 jointly with the first defendant as charged in counts 4 and 5.

### The Law

15. The offence of threats to kill under section 115 of the Penal Code Act is a serious offence carrying the maximum penalty of 15 years imprisonment.
16. The offence of sexual intercourse without consent is a very serious offence carrying the maximum penalty of life imprisonment, under sections 90 and 91 of the Act.
17. Under section 30 of the Act the offence of complicity to sexual intercourse without consent carries the same penalty as the charge of sexual intercourse without consent.
18. Domestic violence is an offence under section 4 (1)(a) and section 10 (1) of the Family Protection Act which carry the maximum penalty of 5 years imprisonment or a fine not exceeding VT 100,000 or to both.
19. In sentencing the defendants, the Court takes into account these maximum penalties to set a starting sentence.
20. Further I took into account the aggravating features such as-
  - Some degree of planning and premeditation.
  - The joint activities between 3 men and 1 victim.



- The victim being the spouse and wife of the first defendant, Graesten Manuake.
- The serious breach of trust by the first defendant and second defendant who were close neighbors.
- The assaults and threats uttered to the victim to make her succumb to the wishes of the defendants.
- The offendings occurring in the night and in the bushes and in the family home where the victim was supposed to feel safe.
- Sex was unprotected with risks of diseases and unwanted pregnancy.
- Sex was repeated between 3 men.
- Threats were repeated.
- Lack of respect and dignity for the victim.
- The long period of time offences were committed from 2018 to 2023, a period of 5 years.

21. The principles of sentencing in cases of this nature are well established in cases such as PP v Gideon [2002] VUCA 7 and PP v Scott [ 2000] VUCA 2. The purposes of sentencing are clearly laid down in the case of PP v Vahirua [2018] VUSC 159 which are-

- To hold offenders accountable for their conducts and the harm done.
- To promote a sense of responsibility for the harm done.
- To denounce the conducts of offenders.
- To deter offenders and like-minded persons.
- To protect the community.
- To mark the seriousness of the offences committed.

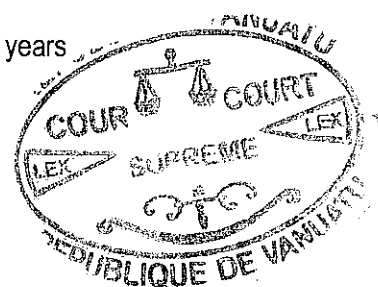
22.1 Bearing all these in mind, I therefore convict and sentence the three defendants as follows:-

**A. Graeten Manuake**

I. For threats to kill-

- Count 1, to 2 years imprisonment
- Count 3, to 3 years imprisonment
- Count 11, to 5 years imprisonment

These sentences are to run concurrently for 5 years



- II. For Domestic violence-
- Count 6, to 1 year imprisonment
  - Count 10, to 1 year imprisonment

These sentences also are to run concurrently for 1 year

- III. For complicity
- Count 8, to 6 years imprisonment
  - Count 10, to 6 years imprisonment

These sentences also are to run concurrently for 6 years.

- IV. For sexual intercourse without consent-
- Count, to 8 years imprisonment.
  - Count 4, to 8 years imprisonment.
  - Count 5, to 8 years imprisonment.

These sentences are to run concurrently for 8 years.

These are the starting sentences, considering the seriousness of the Offences.

22.2 These are the starting sentences , considering the seriousness of the offences. I now stand back and look at the 11 aggravating features in paragraph 20, I adopt a global start sentence of 10 years imprisonment as a concurrent sentence for all the 10 charges against this defendant.

22.3 The defendant is therefore convicted and sentenced to a total sentence of 10 years imprisonment.

### **Mitigation**

23.1 In mitigation I reduce this defendant's sentence by 1 year for his guilty plea, albeit late.

23.2. For all his personal factors in his pre-sentence report I allow a further reduction by 1 years 8 months leaving the balance of his sentence to be 7 years and 4 months imprisonment.



23.3 I note that is currently on remand in custody since 1<sup>st</sup> February 2023, a total of 9 months, 4 weeks. I therefore backdate his sentence to 1<sup>st</sup> February 2023 so he does not lose his parole privilege.

23.4 His sentence of imprisonment takes immediate effect as of today but he has a right of appeal against the sentence if he so chooses, within 14 days.

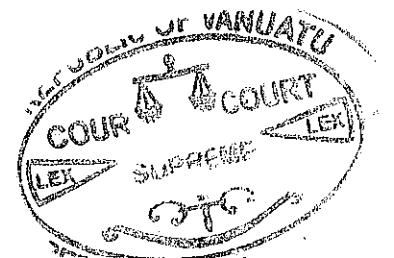
**B) Christopher Brown**

23.5 For sexual intercourse without consent in count 7, I adopt the start sentence of 5 years imprisonment.

- 23.6 (i) In mitigation, I deduct 1 year for his guilty plea although late, representing a 10% deduction.
- (ii) For his personal factors in his pre-sentence report and the submissions made on his behalf, I reduce his sentence by a further 2 years .
- (iii) His end sentence is therefore 2 years imprisonment. He is accordingly convicted and sentenced.
- (iv) His sentence will be effective after 14 days from today, that is to 12<sup>th</sup> December 2023 when he will report to the Correctional Centre, High Risk Unit at 9:00am.
- (v) He has a right of appeal against this sentence within 14 days.

**C) Sima Alick**

- 23.7 (i) For sexual intercourse without consent, count 4, a sentence of 5 years imprisonment.
- (ii) For sexual intercourse without consent, count 5, a sentences of 5 years imprisonment. These sentences are to run concurrently.
- (iii) In mitigation I reduce his sentence by 1 year, 8 months representing the full 1/3 reduction.



- (iv) For all his personal factors in his pre-sentence report I reduce his sentence further by 1 year leaving his end sentence at 2 years and 8 months imprisonment. He is convicted and sentenced accordingly.
- (v) I note that he has already spent 4 months 3 weeks and 4 days in custody before he was released on bail. I consider that is sufficient punishment for his part in these offendings.
- (vi) Due to the circumstances of his offending in 2018 when he was only 15 years old and the delay in prosecuting his case, I consider it necessary to suspend the balance of his sentence.
- (vii) I therefore suspend the balance of his sentence under section 57 of the Penal Code Act on good behavior for a period of 2 years. This means that he must not reoffend or commit any other criminal offences for which he would be convicted. If he does, he will go to prison to serve the balance of his prison sentence (less the 5 months he has already served in custody).
- (viii) He has a right to appeal against the sentence within 14 days if he so chooses.

**DATED at Port Vila this 28<sup>th</sup> day of November 2023**

**PUBLISHED: 4<sup>th</sup> December 2023**

**BY THE COURT**

Hon. Oliver A Saksak

**Acting Chief Justice**

