

BETWEEN: Public Prosecutor

AND: Jack Nasuai
Defendant

Before: Justice Oliver A Saksak

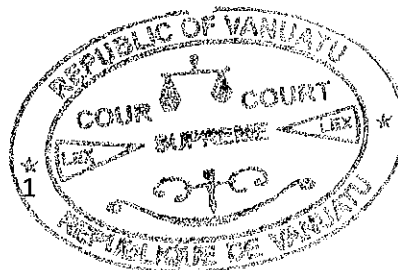
Counsel: Ms Betina Ngwele for Public Prosecutor
Mrs Kylie Karu for Defendant

Date of Plea: 22nd October 2021

Date of Sentence: 25th November 2021

SENTENCE

1. Jack Nasuai pleaded guilty to one charge of domestic violence (Count 1) and one charge of intentional assault causing temporary injuries (Count 2). He is here for sentence today.
2. The offence of domestic violence carries the maximum penalty of 5 years imprisonment or a fine not exceeding VT 100,000 or both. And intentional assault causing temporary injuries carries the maximum penalty of 5 years imprisonment.
3. The defendant assaulted his defacto partner on 20th June 2021 at Etas Area. Someone had called his partner over the phone but she did not answer. The defendant become jealous and suspicious and demanded some explanation. She told him it could have been her uncle and she scolded him for having negative thoughts about her and her relatives. This made the defendant angry. He therefore slapped his partner and she fell to the floor. He then kicked her on the face, back and ribs while she was down on the floor.
4. The victim then went over to the main road to catch a bus into town. The defendant followed her and asked her to return to the house but she refused. The defendant then dragged her to the house. He asked for help from two other men to carry the victim back to their house and they did.
5. On 21st June 2021 the victim attended the hospital for examination. Her medical report sows swelling on the face (8cm), swelling on the neck (8cm), swellings on the back (12 + 24 cm), and swellings on the legs (right and left of 12cm).
6. The defendant accepted those facts.



7. The defendant appears to be a controlling and a jealous man. There was absolutely no reason or mitigating circumstances for the assaults he inflicted on his defacto partner. He slapped her within a domestic setting, at his house where she was supposed to feel safe and protected. He went further than that while she was on the floor he kicked her face, back and ribs as shown by the medical report. Unfortunately she did not sustain any serious injuries but she felt great pain and was unwell as indicated in the medical report. It went further when on the road she was dragged and carried back to the defendant's house without her free will and consent. That was controlling behaviour, making his actions criminal necessitating the second charge of intentional assault.
8. Those are the aggravating features of the defendant's offendings. It is high time men, including the defendant, must learn and know that women, indeed defacto partners and wives (spouses) deserve respect and honour. Wives and defacto partners exist side by side with men as "help-mates" from whom men, no matter how educated, strong or financially rich they may be, can always look to them for love, support and care. Without them, man would be lonely and helpless. Such were evident in this particular case. The victim was on her way out to freedom but the defendant realised he could not do without her so he went after her to drag her back to his home, so he could control her and subject her to further indignities.
9. I assess that those factors warrant a sentence of imprisonment to mark the seriousness of these offendings under the circumstances they were committed, to deter the defendant and other likeminded persons, to mark public disapproval of his actions, to protect women and the vulnerable, and to punish the defendant adequately. I do not accept defence submission that the defendant should be discharged. I therefore convict the defendant on each count and sentence him as follows:-
 - a) For domestic violence (Count 1) – starting sentence of 2 years imprisonment.
 - b) For intentional assault (Count 2) – 12 months imprisonment concurrent with the sentence for the Count 1 offence. He is sentenced to a total of 2 years imprisonment as a concurrent sentence for the 2 offences.
10. In mitigation I consider his personal factors. He is a 47 years old man with 4 children. The complainant is a teacher who has been transferred to Epi High School where she is with 2 children who are younger in ages. The defendant is a bus driver and a builder. They both share responsibilities over the welfare of the children.
11. I note from the Pre-Sentence Report the defendant has performed custom ceremony involving 1 head kava, 1 pig, 1 mat, 1 local basket, island food and VT 10,000 cash, showing remorse.
12. The defendant had spent 4 months from 27th June 2021 in custody on remand until his release on bail on 25th October 2021.
13. He pleaded guilty at the first available opportunity. I allow the full 1/3 reduction for this factor. That reduces his sentence from 2 years to 16 months imprisonment.



14. I deduct a further 2 months for custom reconciliation and other personal factors, leaving his end sentence at 14 months imprisonment, less the 4 months he has already spent in custody. That leaves his total sentence as 10 months imprisonment.
15. This sentence of 10 months imprisonment is suspended for a period of 2 years on good behaviour. This suspension is made under section 57 of the Penal Code Act.
16. In addition to the defendant's sentence of imprisonment, I order the defendant to perform 80 hours community work pursuant to the power in sections 58G and 58N of the Penal Code Act.

DATED at Port Vila this 25th day of November 2021

BY THE COURT


OLIVER.A.SAKSAK

Judge

