

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

Criminal  
Case No. 24/2616 SC/RML

**BETWEEN:** Public Prosecutor

**AND:** Andre Ringiau  
Defendant

**Before:** Justice Oliver A. Saksak

**Counsel:** Mr Mathias Kalwatong for Public Prosecutor  
Mr Harrison Rantes for the Defendant

**Date of Trial:** 4<sup>th</sup> November 2024

**Date of Verdict:** 5<sup>th</sup> December 2024

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## VERDICT

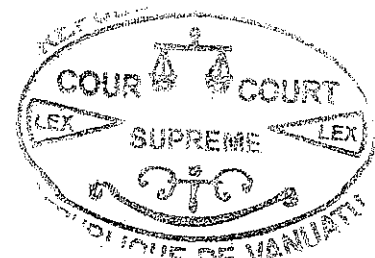
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### Introduction

1. After hearing evidence from 2 Prosecution witnesses and from the defendant and a defence witness yesterday, 4<sup>th</sup> December 2024, and after hearing final summaries and submissions from both Mr Shem and Mr Rantes, I orally returned the verdict of guilty on the defendant today, 5<sup>th</sup> December 2024.
2. I now give reasons for my decision.

### Background facts

3. The defendant was charged with domestic violence ( Count 1) Obstructing Police ( Count 2) and threats to kill ( Count 3).
4. On 25<sup>th</sup> November 2024 the defendant entered guilty pleas in relation to domestic violence and Obstruction of Police ( Count 1 and 2). He however pleaded not guilty to threats to kill in Count 3 and trial hearing was held in 4 December 2024.



5. The Charge read:

*“ THREATS TO KILL PERSON contrary to section 115 of the Penal Code [ Cap 135]*

*PARTICULARS OF OFFENCE*

*RINGIAU ANDRE, on the 16<sup>th</sup> April 2024, at Whitesands area in Tanna, knowing the contents thereof, directly caused Ernest Joseph to receive oral threats to kill, when you told him that “ tete bae yu pispis mo bai yu tet”. “*

6. Section 115 of the Penal Code provides for threats to kill person:

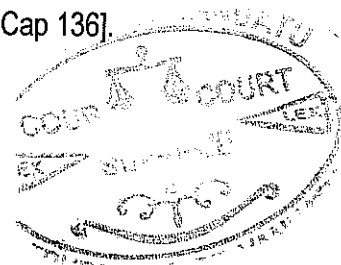
*“ No person shall, knowing the contents thereof, directly or indirectly, cause any person to receive any oral or written threats to kill any person.”*

### The Facts

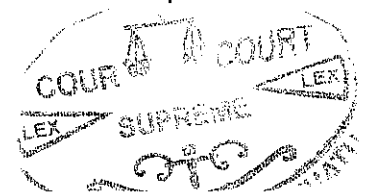
7. On 16<sup>th</sup> April 2024 a community meeting was convened at Imanakel nakamal, Whitesands, East Tanna. The purpose of the meeting was to solve the issue of John David who had sworn at and used abusive language against his parents. At the meeting the Chiefs gave authority for John David to be beaten, presumably as a form of punishment.
8. After all that had happened Ernest John, the complainant made a passing remarks saying or questioning the authority of the nakamal **“ Wetaem komunity I stopem swearing?”**
9. Upon hearing this the defendant stood up and shouted at the top of his voice saying **“ Tete bae yu pispis, bae yu tet”**, and holding a long machete ( knife) ran towards the complainant who stepped back and hid behind John Joseph.
10. The defendant approached them with the knife raised. However the defendant was apprehended only a short distance away from Ernest and John by relatives of the defendant and taken away.

### The Trial

11. Before Prosecution opened its case the Court read and explained in Bislama the statement of the Presumption of innocence in section 81 of the Criminal Procedure Code Act [ Cap 136].



12. By this section and section 8 of the Penal Code Act, Prosecution has the high onus of proof beyond reasonable doubt the guilt of the defendant. This is a legal and evidential burden.
13. Prosecution called two witnesses, Ernest John the complainant and a witness John Joseph. They were cross-examined by defence Counsel.
14. Relevantly the evidence of Ernest Joseph was that he heard a loud shout by the defendant uttering the words “ **Tete bai yu pispis, bae yu tet**” made after he had questioned the authority of the chiefs saying “ **wataem komunity stopem swearing?**”. He said the defendant was angry and ran towards him holding a Machete of 70 centimetres. At the sight of this he took 10 steps back and hid behind John Joseph who also had a knife with him. He said the defendant came close within a distance of about 2 metres, running with the knife raised in readiness to cut. At that point the defendant was restrained by his relatives and taken away. But the commotion had put fear in himself, the men, women, the youths and children. He said the women and children were crying. He said he felt as though he was already a dead man.
15. John Joseph gave evidence on oath. He too was at the meeting. He said Ernest was trying to talk but was stopped by people who were drinking alcohol and swearing or using abusive language. That was when Ernest Joseph questioned the community’s authority and the defendant reacted and said: “ **tete taem blong you bae yu tet**”. Then he said he saw the defendant holding a knife in his hand and ran from his side of the nakamal towards their end where they were. He said Ernest Josph came behind him and sought protection. The defendant approached them with the knife and raised it to cut them at a distance of about 2 metres away. It was at this time a group of boys came to restrain the defendant and took him away. He said he too had a knife with him at the time but it was for the purpose of going to the garden. He said he too felt afraid at the sight of the defendant and his knife.
16. The defendant opted to give evidence in his defence after the Court had formed the view a prima facie case was made out against him. And section 88 was read by the Court to the defendant. He called a defence witness in support of his defence. He denied uttering the threats alleged by the complainant.
17. Relevantly the defendant accepted he was present at the meeting on 16 April 2024. He denied shouting aloud and making the threats alleged. He said he was angry at Ernest Joseph



because he had raised an issue against him which was already resolved. He agreed he said "**Tete bae yu saveh rod blong yu.**" He agreed he was angry and held a knife and approached Ernest who went behind John Joseph. He said he lifted up the knife to cut them but was stopped by the boys. He denied going too close because John Joseph was also holding a knife.

18. Pascal Ringiau, gave evidence for the defendant. He is related to the defendant as son. He said he too was at the meeting. He said his father (defendant) tried to cut his uncle (Ernest) who went behind John Joseph and the defendant went back to sit down. He said nothing happened. He did not hear anything said. He said it was he who stopped his father by holding him back at a distance of 8-9 meters away from Ernest and John Joseph.

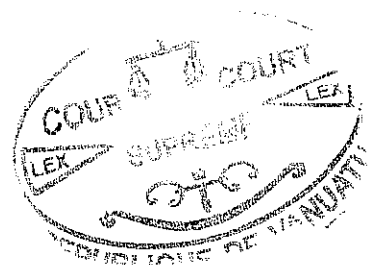
### Discussion

19. The issue I have to decide is : Did the defendant utter the words: "**Tete bai yu pispis mo bai yu tet?**".

20. From the evidence Ernest Joseph said the defendant had said those words when he shouted loudly then ran towards him with a 70 centimetre machete. He took 10 steps back and went behind John Joseph to take shelter. The defendant approached them and within a distance of about 2 metres raised his knife to cut them but was restrained by the boys who took him away. He said he felt as though he was already dead.

21. John Joseph said the words spoken were: "**Tedei taem blo yu, bae yu tet**". He saw the defendant ran towards Ernest with his long knife and Ernest stepped back and ran behind him. The defendant still approached them both with his knife raised. He was however stopped by the boys some 2 metres away.

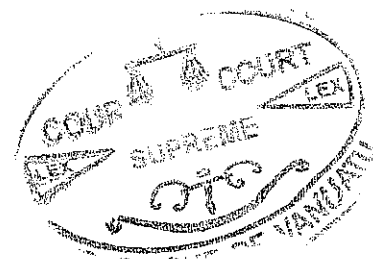
22. The defendant denied saying those words but accepted he said: "**Tedei bae yu saveh rod blong yu**". He accepted he was angry because Ernest had raised some past issues of his which was past and resolved. He accepted holding a knife and running towards Ernest to cut him but he ran behind John Joseph. He accepted approaching them with his knife raised but was restrained by the boys and taken away.



23. Pascal's evidence was unreliable which the Court rejected as inadmissible. It added nothing to discredit the Prosecution witnesses evidence. Putting that evidence aside, that leaves only the evidence of the defendant against the evidence of the two prosecution witnesses.
24. Although the statements alleged to be the threats uttered were not exactly the same, both statements uttered included the word "**tet**" which implies "**death**" being the result and outcome of the word "**kill**" used in section 115 of the Penal Code.
25. To "**kill**" a person implies the taking away of a person's life as opposed to Bislama "**Killim**" a person which means merely to "**assault**" or cause bodily injury to a person. If the words is expressed as "**killim tet**" it literally means to take a person's life away, by causing death.

### Conclusions

26. Here the evidence shows the defendant used a statement included "**tet**" meaning "**death**" which is the result and outcome of "**kill**" or "**killing**" of a person.
27. The Court is satisfied therefore there was a threat made against the complainant to "**kill him dead**" or take his life. The defendant was seen running with a big long and sharp knife of 70 centimetres. He ran towards the complainant with the knife raised. He had put his threats into action. He would have cut and finished the complainant off ( by killing him) but for the boys restraining him in time.
28. Against the evidence of two prosecution witnesses, the evidence by the defendant denying he said or made those threats is not credible and cannot be believed. I therefore reject the evidence of the defendant.
29. I am satisfied the Prosecution has proved the guilt of the defendant and every element of the offence of threats to kill, beyond reasonable doubt.



30. Accordingly I return the verdict of guilty against the defendant and convict him accordingly.

DATED at Isangel, Tanna, this 5<sup>th</sup> day of December 2024

BY THE COURT



Hon. OLIVER A SAKSAK

Judge

