

BETWEEN: Public Prosecutor

AND: Ricky Iamak

Coram: Justice Aru

*Counsel: Mr. K. Massing for the Public Prosecutor
Mr. H. Rantes for the Defendant*

SENTENCE

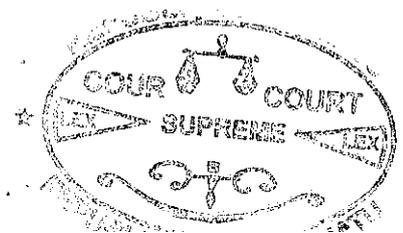
Introduction

1. Ricky Iamak was rearraigned on 10 July 2023 on one count of unlawful sexual intercourse and one count of threats to kill and pleaded guilty to both charges. This is his sentence.

Facts

Count 1

2. On 13 January 2021 the defendant had an argument with his wife and as a result left their house and went to another village. Around 11.00pm the same night the defendant sent the victim to get the keys to his bedroom. When she entered his bedroom, he followed her and told her to sleep with him in his room. She refused and insisted that she will tell her aunt who was sleeping in the other room. The defendant told her if she refused to sleep with him in his bedroom, he will get angry with her instead of her mother. The defendant turned off the light in the bedroom and told the victim to undress. She did nothing and told him what he was doing was not right. The defendant did not listen to her and proceeded to undress her. He removed her underwear and sucked her vagina before inserting his penis into her vagina. She felt pain and told him but he said he was yet to ejaculate. As she was in so much pain she cried out loud and her aunt heard her and came and knocked on the bedroom door. The defendant answered that he was beating the victim.
3. After having sex with the victim, the defendant told her if anyone asked, she was to say the defendant beat her. The victim's birth certificate showed she was born on 1 September 2007 which meant she was 13 and half years at the time of the offending on 13 January 2021.



Count 2

4. Whilst the victim tried to reason with defendant inside the bedroom, the defendant told her not to call anyone and threatened her by saying: “spos yu singaot bae mi stikim ded yu long knife” (*if you scream, I will stab you to death*). The victim was terrified by the threat and reluctantly allowed the defendant to undress her and engage in sexual intercourse with her. He told her not tell anyone about the incident.
5. When the matter was reported to the Police, the defendant after being cautioned admitted the offending.

Sentence start point

6. Unlawful sexual intercourse is punishable by a maximum sentence of 15 years imprisonment. Similarly, threats to kill is punishable by a maximum sentence of 15 years imprisonment. The aggravating factors of the offending are:
 - there is an age disparity between the victim and the defendant of some 24 years;
 - there is a breach of trust as the victim relates to the defendant as her step father;
 - the offending occurred inside a home where the victim should feel safe;
 - the victim will continue to be mentally affected by the experience; and
 - she was also exposed to the risk of sexually transmitted diseases and getting pregnant at a young age.
7. There are no mitigating factors of the offending.
8. I adopt a global sentence start point of 5 years imprisonment with an uplift of 1 year considering the seriousness of the offending making a total of 6 years imprisonment .

Mitigation

9. A Same Day report was filed by the Probation officer which gives the follow details about the defendant. Mr. Iamak is 41 years old and is a first-time offender. He is married with four children. Two are attending secondary school and two are attending primary school. His wife left him to begin a new life in Vila leaving him with the children.
10. Mr. Iamak is a class 6 leaver and is an active member of his community. He earns his living through subsistence farming and is the breadwinner of his family. Taking into account his personal factors I reduce the sentence start point by 8 months.



11. A custom reconciliation was performed to the victim and her mother and was accepted. The following items were exchanged by the defendant: -
- A pig (worthed at VT50, 000)
 - 5 stems of kava
 - Some crops; and
 - Some mats
12. The sentence start point is further reduced by 4 months for the custom reconciliation.
13. For the guilty plea, the defendant initially pleaded not guilty to the charges and the matter was listed for trial which did not proceed. On 10th July 2023 he was re-arraigned and pleaded guilty. Given the strength of the prosecution case against him and the late guilty plea, the sentence start point will be discounted by 20%.

End Sentence

14. Mr Iamak is sentenced to an end sentence of 4 years imprisonment. For the offence of threat to kill he is sentenced to 12 months imprisonment to be served concurrently with **effect from 23rd February 2023** when he was remanded into custody. The sentence is to serve as punishment for his offending and be a deterrent to his future offending and to the public at large.
15. The defendant has 14 days to appeal if he is not satisfied with the decision.

DATED at Isangel, Tanna this 14th day of July, 2023

BY THE COURT

.....
D. Aru
Judge

