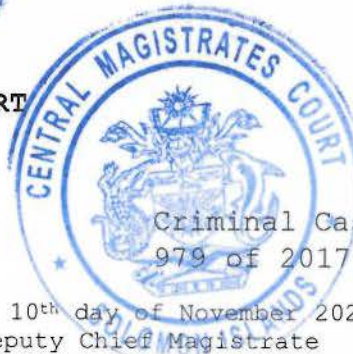


**IN THE CENTRAL MAGISTRATES' COURT
OF SOLOMON ISLANDS**

Criminal Jurisdiction



Criminal Case No. 930 &
979 of 2017

Sentence delivered on the 10th day of November 2020
Coram: Ricky Iomea, Deputy Chief Magistrate

Parties:

Mr. Zoze for the Crown
Mr. Manebosa for John Kemabule and Timothy Bobongi Junior
Mr. Harunari for Peter Rande

BETWEEN:	REGINA	Complainant
AND:	JOHN KEMABULE	Accused
AND:	TIMOTHY BOBONGI JUNIOR	Accused
AND:	PETER RANDE	Accused

SENTENCE

BACKGROUND

The Accused John Kemabule was convicted on two counts of arson after trial. He was part of the group that set fire to the houses of Pea Belamamata and John Collin on 3rd September 2017 at Walehi village.

The accused Timothy Bobongi Junior and Peter Rande, are each convicted on one count of Acts intended to Cause Grievous Harm contrary to section 224 (a) of the Penal code and one count of Assault Causing Actual Bodily Harm, contrary to section 245 of the Penal Code. The two were part of the group that assaulted David Gorosi and Joseph Meti 2017 at Walehi on the 3rd of September 2017. Timothy Bobongi Junior and Peter Rade had physically participated in the assaults on the two victims on 3rd September 2017.

THE ISSUE

The task for this Court now is to decide the appropriate sentences to be imposed against the defendants for the charges upon which they are convicted.

THE FACTS

On the morning of Sunday 3rd September 2017 a group of men arrived at Walehi village. They were aggressive and were shouting. They destroyed plants and other properties in the village and burnt down John Collin's and Pea Belamamata's houses. The accused John Kemabule was part of the group that burnt the two houses. He was there at the scene

knowingly as part of the group and to assist the group to do an unlawful act. He had aided the burning of John Collin's and Pea Belamamata's houses.

The group also assaulted David Gorosi and Joseph Meti on that day at Walehi. The boys were aggressive and swore at the two victims and asked them for whereabouts of John Collin. The group assaulted the two victims by hitting and kicking them.

The group led the two victims from where they first assaulted him to a village called Chaigota.

The victim Gorosi was hit with an iron (handle of a Lucas) on the right side of his jaw, lower part and left side upper jaw.

Mr. Gorosi was also stabbed on his right chin with a bush knife by Peter Rade.

The group tied the two victims' hands to their backs and escorted them along the road.

The group tied a timber- 6inch x 2inch on Gorosi's shoulder. The length of the timber was about 2 meters. The group tied a full bunch of banana on Meti's shoulder. Then they escorted them to Chaigota village at Lambi. On the way, they felt pain. Blood came out from Gorosi's mouth and ear. There was a cut on Gorosi's right chin. His body was painful and covered with blood.

As a result of the assault on Gorosi, his teeth is no longer normal. Also, if he sit for a long time, he would feel pain on his back. The group assaulted the two men because John Collin escaped.

For the victim Joseph Meti, he was hit with an iron on his head and as result his head was injured. The group also hit him with a chain saw chain at his back and suffered injury.

The group was at Walehi to retaliate against the death of their relative whom they believed died as a result of black magic or sorcery by John Collin.

The accused Timothy Bobongi Junior and Peter Rade were part of the group that assaulted Gorosi and Meti and had physical involved in the assaults on the two victims.

AGGRAVATING FACTORS

Two families lost their two houses as a result of the action by the accused Kemabule and the group. These houses were completely destroyed. Depriving the families of the complainants from using their houses and also putting fear and anxiety on the families. They had to rebuild their lives by constructing new houses, another burden on them physically and financially. Other valuable properties were also lost.

I noted that the house of John Collin was built of timber and leaf. It was not really clear as to the type of materials used for Pea Belamata's house. However, those are substantial losses for the two families.

The offending involved a group of angry men who were there at Walehi to retaliate for the death of their relative whom they believed was caused by witchcraft by John Collin of Walehi. I have no doubt that their actions had caused fear to the villagers who witnessed the burnings.

The offences of arson and assaults were committed as a result of premeditation or pre-planning without any thought of the consequences on themselves and their families.

The victims Gorosi and Meti were subjected to torture when they were paraded against their will on the journey from Walehi to Chaigota. As a result of the assaults, they sustained serious injuries. The victim Gorosi told the Court at the trial that as a result of the assault on him, his teeth is no longer normal. Also, if he sit for a long period of time, he would feel pain on his back.

The offendings were also aggravated by the fact that in the arson and assault incidences, the groups were in possession of weapons and weapons were used in the offendings against Gorosi and Meti.

DETERRENCE

The defendants clearly had decided to take the law into their own hands without having regard for lawful means of solving the alleged witchcraft allegation. The defendants had decided to pass judgment on John Collin, one of the complainants and retaliated against him and others at Walehi, including the victims David Gorosi and Joseph Meti although there was no proof of the alleged spell from witchcraft by John Collin.

The Court has a duty to impose a deterrent sentence that would send the message clear to the defendants and other members of the public who might be tempted to retaliate on unsubstantiated witchcraft or sorcery allegations in the future that, the Courts will not tolerate such violent and disrespectful behavior towards others and their properties and complete disregard for the rule of law. In this country, where many seemed to believe in sorcery, I am of the view this this is an important.

MITIGATION

I note that all the defendants are first time offenders.

They have families that depend on them for support. There is no doubt that their incarceration has negatively impacted on their families. These are consequences that they should have thought of before engaging in the plan to execute the unlawful acts on that day.

SENTENCE ORDERS

Having considered the facts, the aggravating factors, the need for deterrence, retribution, rehabilitation and the mitigating factors, I am of the view that immediate custodial sentences are warranted in

the circumstances of this case. The following sentences are, in my view appropriate;

John Kemabule

The Arson charge relating to John Collin's house - 3 ½ years imprisonment.

The Arson charge relating to Pea Belamamata's house - 3 ½ years imprisonment.

Although there were separate victims, the offences were committed on the same day and within close proximity of time between each other. They are committed as part of the same transaction therefore, I order that the two sentences will run concurrently to each other.

The total effective sentence to be served is 3 ½ years imprisonment.

Peter Rade

Grievous harm charge - 3 years imprisonment.

Assault Causing Actual Bodily Harm charge - 2 years imprisonment.

Although there were separate victims, the offences were committed on the same day and within close proximity of time between each other. They were committed as part of the same transaction therefore, they will run concurrently to each other.

The total effective sentence to be served is 3 years imprisonment.

Timothy Bobongi Junior

Grievous harm charge - 3 years imprisonment.

Assault Causing Actual Bodily Harm charge - 2 years imprisonment

Although there were separate victims, the offences were committed on the same day and within close proximity of time between each other. They were part of the same transaction therefore, they will run concurrently to each other.

The total effective sentence to be served is 3 years imprisonment.

I further order that the sentences for all three defendants are backdated to commence on the date they were remanded in custody after they were convicted by this Court.

The Court

Ricky Iona - DCM

