

**IN THE SOLOMON ISLANDS MAGISTRATES' COURT
AT HONIARA**
Criminal Case No. 276 of 2021

**REGINA
V
WILSON KARI**

Before: Principal Magistrate Ms. Fatimah Me'ere Taeburi
Ms. Martha Mutukera (DPP) for the Crown
Mr. Donation Houa (PSO) for the Defendant

Date of Submissions: 26th July 2021
Date of Sentence: 29th July 2021



29/7/21

SENTENCE

PM Taeburi,

1. The defendant pleaded guilty to one count of incest contrary to section 163(2) (b) of the Penal Code (Amendment) (Sexual Offences) Act 2016.
2. The facts agreed to by counsels disclose that the accused had sexual intercourse with his biological mother. She was 70 years old at the time. He was 43 years old.
3. The incident of incest happened at Vuturua Village in the Central Islands Province. The accused resides with his mother and father. He came into the kitchen that morning and saw his mother preparing food. He told her to bend over and then penetrated her vagina with his penis from behind her.
4. Other members of the village went past the kitchen and saw the defendant having sexual intercourse with his mother. They laughed at them and he stopped.
5. I convict the defendant on those facts.
6. The facts of this case are quiet disturbing I must say. In my very limited experience in practising criminal law, this is the first time that I come across a case of incest involving a man and his mother.
7. Incest or sexual relationship with close family members is a forbidden taboo. It is against our criminal laws, our custom and culture and our religious beliefs. The taboo of incest distinguishes mankind from other creatures on this earth. In our custom, a

man who commits incest with his mother may face serious consequences from being dis-owned by his father or even killed. The Bible forbids incest and preaches that a man who has incestuous relationship with his mother brings a curse or even death to both of them.

8. The sentence imposed here must be able to teach this convict and others that sexual relationship with close family members is immoral and wrong in our custom, our religious beliefs and according to our Laws.
9. From the agreed facts, it is unclear whether the convict used force or coercion to commit the act on his mother. Whether or not she was a consenting party to the incestuous act is unclear from the agreed facts. I therefore cannot agree with the crown's argument that there was breach of trust given their close family relationship and her old age.
10. I move further to state that the law creates an offence on both parties in cases where the incestuous act or relationship was consensual. This means that in cases where there is no evidence to suggest that the other party was acting under any form of coercion, then both parties are equally liable for committing the offence of incest.
11. I consider that the convict pleaded guilty to the charge. I give him full credit.
12. He has no previous convictions. I also consider his personal circumstances.
13. The maximum penalty for this offence is 10 years imprisonment.
14. In my view the appropriate starting point is 4 years imprisonment. I deduct 1 year for his guilty plea. He is sentenced to 3 years imprisonment. The time spent in custody is included.
15. Right to appeal within 14 days.

Dated this 29th Day of July 2021


Principal Magistrate Ms. Fatman Mere Taeburi