

Held at Port Vila

PUBLIC PROSECUTION -V- DAVID MORRIS

Having heard the plea entered by the defendant in the single charge of Intentional Assault contrary to Section 107 (b) Penal Code Act Cap 135 and upon hearing the learned Public Prosecutor and subsequently the learned Counsel for the defendant in this case and having satisfied that the complainant Elsie Morris Timataso is legally married to the aforementioned defendant has been subjected to an act of an assault on the 07 day of April 1995 and further upon having found the aforementioned defendant guilty for intentionally assaulting his legal wife.

In light of the prevailing circumstances, the court makes the following observations that :

1. The Defendant and his wife have been living in their matrimonial home at Ohlen Area.
2. On or about the 7 April 1995 the complainant intended to withdraw at least the sum of 200,000 Vatu from Westpac Bank to facilitate attendance of her graduation ceremony in Australia.

The defendant had tried to persuade his wife not to make such unnecessary trip when the said 200,000 Vatu could have easily been used on useful investment.

The complainant insisted in defence when the defendant retaliated by assaulting her on most parts of the victim's body.

It understood that both parties have experienced difficult times during their marriage life to date where they often resorted to domestic violence.

With the above observations it is adjudged that :

- a) the incident occurred as a result of a domestic violence between a husband and a wife in their matrimonial home
 - b) the Defendant is a former member of Vanuatu Mobile Force who has a history of Assault
- but

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- c) The incident in this case is centered around supposedly to be of a mutual understanding to sort out what should be of their family best interests and what is seen to be of low priority to them.

In view of the above the court has considered 2 options either imposing

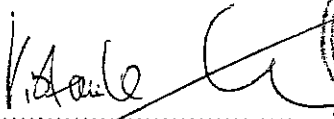
- (1) a fine or
- (2) giving a suspended sentence

In this case, the court has come up with a view that the defendant has the tendency to often resort to an act of assault in order to satisfy himself some with obvious reasons while others can be considered as provocative. And with this in mind, the court considers appropriate to impose a suspended sentence pursuant to section 1 of suspension of sentences Cap 67 while considering the circumstances and in particulars the nature of the crime and the character of the offender sentencing David Morris for 3 weeks imprisonment but suspended for one year.

Defendant has a Prosecution Costs of 2000 Vatu payable before 30 September 1995.

Finally it is ordered that the Restraining Order made on the 26/06/95 and subsequently extended from the 28/06/95 against the Defendant is cancelled.

Dated the 11th day of August 1995.



BRUCE S. KALOTITI KALOTRIP
Magistrate

