



IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU

CRIMINAL CASE No 40 OF 1995

PUBLIC PROSECUTOR

-v-

TUI GEORGE SAIPIR
BERRI MAX JIMMY
SARAH SALOME
AND
LUCIANA MARI-PICCHI

SENTENCE

This has been one of the most gruesome killing in living memory in Vanuatu. It is plain from the evidence that I have heard, that you Luciana Mari-Picchi, planned this killing. There came a time when you could no longer bear your husband. It is also plain to me that your loathing of him came about as a result of the treatment you received at his hands. That you were being brutally treated by him; that he was being unfaithful to you; that he gambled away what you regarded as precious family assets, there is little doubt about. Nevertheless, that can never be an excuse for killing someone, specially when you had a clear alternative offered to you. The picture painted by the whole evidence in this case and your owned evidence itself, disclosed the strongest possible motive for you to murder your husband. Plainly you had no intentions of going back to Italy to bring up your young son there. You had too many difficulties there to sort out. As you said yourself in the course of your evidence: "I partook in this magic because when one arrives at a point when it is no longer possible, Franco became uncontrollable with his follies with gambling and women and it went on day and night, as soon as the casino was open he was there. Also financially my family and I had lent money to Franco also during my last visit to Italy, also because I could not see a future for my son and also because of the violence, I was being hit every day. I let myself get involved in this fantasy after listening to all the accounts". "I did think of taking other steps but magic. I thought best thing to do was to leave, pack my bags and take my son and go back to Italy. Yes I wanted to leave, but Franco took my passport, that was the first problem. The second problem why I did not take this step was because if I went back to Italy with almost 25 million vatu of protested debts and

with a child, it would not have been an easy life and with a child life would not have been easy ...". and later in cross-examination you said: "By that time I could not live like this I had to think of my son's future. You cannot gamble away 1 million vatu an evening. I remember saying 'Franco was having a crisis at gambling he had lost a lot of money and thought I was bringing him bad luck, he went out at 8.30 p.m. and said if I loose I'll kill you'. It was in the light of his previous behaviour that I took him seriously. It was similar to a previous threat made in Italy: 'If I loose it will be your problem when I come back'. And when he came back he burnt me then. Sometimes when he played and lost he would change from one moment to the next. If he won he would be the sweetest person on earth. It was the next day following Franco's threat that Ezra arrived, in fact I went the same evening to see Ezra ... "

I also believed Tui's account when he told the Court that when he suggested that you should divorce your husband, you said that you could not do that because you feared that he would gain custody of your son. In your mind the only solution was to kill him. I believe that you then decided to find some local poison to dispose of him. That is why you approached Ezra. Failing that you seduced Tui, in the hope that he could assist in killing your husband and possibly by way of revenge for your husband's unfaithfulness. Even then, at first you were hoping that he might be able to find you a local poison. That would have pointed the finger of guilt towards local people. When your plan failed, you then induced Tui to kill your husband. You offered 1 million vatu, a considerable sum of money here, if he found someone willing to help to kill your husband. That is how he involved Berri. I have no doubt that you placed that rope around the throat of your husband and that you were the one that took away his last breath of life as suggested by Professor Koelmeyer. You went as far as checking his blood pressure in order to make sure that he was dead before you disposed of his body. That showed two things, firstly that your intention was premeditated, and secondly that you did not wish to take the risk of his surviving this assault. In your vile plan, you involved three others. I have no doubt at all, that Tui, Berri and Sarah were just ordinary, good and kind Ni-Vanuatuan people, who got themselves involved in your evil plan to kill your husband because of you. If you had not influenced Tui and Sarah and through Tui, Berri, in the way that you did, they would probably never have got involved in any sort of crime at all. It was your evil influence over them that led those three into this terrible murder. You had support from some friends even before your husband's death. Mr Dominique Dinh, when you first approached him, offered to pay for your trip and that of your son back to Italy. You could have gone at anytime. Once there, you told the Court at one time, that you knew you would be safe in your father's house. Your learned Counsel urges that this was the act of a battered woman suffering from the battered woman syndrome. Your learned Counsel suggests two matters in your favour. Firstly that your behaviour is akin to diminished responsibility. I do not agree at all with that suggestion. You pleaded not guilty and never once raised that as a defence. Secondly, he urges that you were suffering from the battered woman syndrome. He said that in order to form part of self defence, you did not have to wait for what he called 'the lifted knife'. That again was not raised in your defence. Indeed it would have been extremely difficult to persuade any Court that you were acting legitimately. In this case, I am absolutely satisfied that in spite of being beaten occasionally by your husband, that you had every opportunity to leave him. I am also entirely satisfied that this was the furthest thing from your mind. You were plotting in

a very cool and calculated way, and for some months before the killing, to find the best way to kill your husband. This was not the spontaneous act of a desperate woman, but the cool vengeful act of a person determined to have her own back against her unfaithful husband, who was also at times a brute admittedly, and who seriously gambled away what you saw as the family assets. That you were seeking revenge was obvious. Indeed I will quote your own words to the Court: **"Because he knew that I was very angry and I could not pass over what he had done to me"**. You saw his behaviour as endangering your future and your son's future. You decided thereafter to plan your husband's death. I find it difficult to accept that you ever thought of saving your marriage. It is obvious that you could not approach someone you did not know outright and ask for poison for your husband. I believe the so called magic cures were no more than a ploy on your part in order later to ask for poison. The only positive thing that can be said about you, is that you have genuine love for Francesco. The strongest point raised in your favour is that you will be serving your sentence some considerable distance from your family and friends and from your son, and I take that point very much on board in sentencing you. I had the advantage of seeing you testify for over a week, I believe. You used to the full, every possible ploy to mislead the Court. You went as far as turning on the tears when talking about "your dearly beloved husband". I have no doubt that when Tui recounted the incident visible in Ex 51, the Banana bay party, that you did say to him that you pretended to cry there, and that in fact you were thereafter laughing about it with him. I have no doubt that left to your own devices, you would kill again if it suited you. You are manipulative to excess. You have caused great distress around you. You have destroyed not only your husband's life, but that of at least three others who fell under your spell. Your learned Counsel urged the Court to consider a finite sentence in your case and I will, at least to some extent. You are fortunate indeed that there is not a mandatory death sentence for this kind of killing in Vanuatu. I believe that you would not have been as fortunate in Italy, but I do not know. As I have said, I have little doubt that you are quite capable of killing again if released early, and that you probably would if the occasion suited you. I bear in mind that you are still a young woman and I also bear in mind everything that your learned Counsel has mentioned on your behalf. Nevertheless, it is also plain to me that you have shown no remorse whatsoever for this killing. In fact, I did not fail to notice your broad smile when I pronounced you guilty yesterday. Nevertheless, it gives me no pleasure and indeed saddens me considerably, to have to sentence a young mother in the way that I propose to do. Your Counsel submits that I should consider your son's position when sentencing you. That is something I cannot do. Indeed if I did, I would consider that he is better off being brought up by your sister in the relative safety of a normal family. I fear that I would be failing in my duty if I did not sentence you in the manner that I propose to. For your part in this killing, Luciana Mari-Picchi, I sentence you to life imprisonment. I hesitated between making the recommendation that in your case life should mean life or imposing some finite recommendation. I simply say this, that you should not be considered for release before you have served at least 30 years, when hopefully you will be too old to be able to take any other life and even then I have my doubts. I will inform the authorities of my sentence, particularly the office of the President, so that you are not mistakenly released early. You Tui and you Berri have both pleaded guilty to this dreadful crime. This is, in itself, a considerable mitigation. You have both, I accept, shown considerable remorse. You have both assisted the Court to the extent that Luciana Picchi would probably never have been brought to justice without your

help. She would have probably been free to kill again. I bear in mind that you are both men of hitherto good character and that save for the fact that you were under the influence of Luciana Picchi, certainly you Tui to a greater extent than Berri, neither of you would have been before this Court today. You Tui, partook in this crime because you were besotted by this woman, of that there is no doubt at all. As soon as she could thereafter, she dropped you. You had become nothing less than a nuisance to her. Your motive Berri was certainly not as pure as Tui's. You killed for money. Nevertheless, I do not propose to differentiate between you in sentencing. I bear in mind that you are still very young men. Both of you will go to prison for this killing for a period of 20 years. With good behaviour a third will be taken off. As for you Sarah Salome, I do not for one moment accept your account that you were there by accident on the 28 November 1994. I believe that this was pre-arranged with your mistress. You had bought the wigs. You knew about the gloves and the nails. Indeed, you knew where they were hidden. You did not hesitate to take them out and pass them to Tui and Berri when they came. I do not believe that you did not know that your mistress was plotting to murder her husband. The evidence points overwhelmingly to the fact that you were her confidante and trusted handmaid. She could not have coped on that night without your assistance. I believe that you were aware from a very early stage that she was plotting to poison her husband. Indeed you were present and a party to her discussions with Ezra. I have no doubt that you tried hard to minimise your role in this whole affair. You are fortunate that you were not charged with the murder, the same as the others. The fact is that you were not. I will respect that fact and reflect it in my sentence. I have no doubt that you too were manipulated by Luciana Picchi and that save for her influence over you, you would never have come before this Court today. Nevertheless, I cannot ignore the fact that you were a perfectly willing party to this dreadful night's events. I give you full credit, as I did to the others, for your immediate confession to the police and for your plea of guilty. I accept that it took courage for you to come and testify against your mistress and friend in this Court and that this was particularly traumatic for you. It was obvious to me, that unlike Tui and Berri, you lied to the Court, certainly to minimise your own role in this dreadful affair, but also probably out of misguided loyalty to your former mistress and friend. I also take into account everything else that your learned Counsel has very ably told the Court about you, especially your previous good character. In your case, the least sentence that I am able to pass upon you is one of 12 years' imprisonment. Tui, Berri and you will start your sentence from the 10th April 1995. Luciana Picchi will start her sentence from the 19 April 1995.

By order of the Court

Dated this 6th day of December 1995.

