

**PUBLIC PROSECUTOR -v- IARPO NAKAT
SIMON NAKAT**

Coram: Mr Justice Oliver Saksak
Mr Graham BIHU State Prosecutor for Public Prosecutor
Mr Stephen Joel Public Solicitor for the Defendant
Mr Thomas Tom, Interpreter

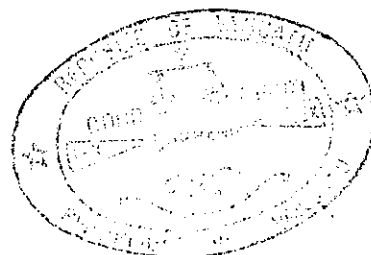
JUDGMENT

The Defendants appeared before this Court on 4th June 1997 for plea. Iarpo Nakat (the First Defendant) was charged with Rape against Section 91 and his cousin Simon Nakat (Second Defendant) was charged as an accomplice under Section 30 of the Penal Code Act (CAP 135). Both Defendants pleaded guilty as charged.

The brief facts of the case were that on or about 19th October 1996 at about 4 o'clock in the afternoon at the crossroad to Lenakel stadium while the victim Anita Moses was sitting down with her mother and another woman, the First Defendant approached them and grabbed Anita and led her away. The First Defendant pulled the victim into the nearby bushes. Anita was crying but the First Defendant threatened to shoot her with his catapult. He then forced her to remove her pants and he proceeded to have sex with her. While this was going on the Second Defendant stood guard to allow the First Defendant to have sex with the girl. The victim felt very sore and she saw blood on her vagina and pants.

Medical Reports confirmed blood in the vagina. Also a leave was found in the vagina of the victim.

Mr Stephen Joel on behalf of the two Defendants told the Court in mitigation that they were involved in drinking the night before. They drunk a bottle of wine and went to a dance, where they danced until daybreak. The next day they found two other boys and they drunk 2 bottles of whisky and 1 carton of Tusker beer. The two other boys boarded a ship to go to Vila and the Defendants were going home when they met the victim. They gave a consistent set of facts. The First Defendant said the victim removed her own clothes. He said that he was so drunk he only remembered half of what happened.



Mr Joel invited the Court to take account of the fact that the force used was not excessive. That the Second Defendant played a minor role, that they had too much to drink and that they had pleaded guilty. Both are first offenders.

In pronouncing the Court's verdict and sentence on 5th June, 1997 I said :-

This Court finds guilty, Iarpo Nakat on a charge of Rape contrary to Section 91 of the Penal Code Act on your own admission. Similarly, the Court finds you guilty, Simon Nakat of being an accomplice under Section 30 of the Act.

You Iarpo Nakat admitted pulling a girl into the bushes and forcing her to go with you. She was crying and you did not care even when she was with her mother and another woman. You frightened her by threatening to shoot her with catapult. You obtained her submission that way and you had sex with her against her will. You did an unlawful act and the law must punish you for your action. You were obviously very drunk. Young girls must be protected from boys like you. I take into account that you are a first offender and that you have had custom settlement but the fact remains that you did something really bad.

I now sentence you to 5 years imprisonment.

As for you Simon Nakat, you offered your service as a guard to something you could have known was wrong. The law says that you can be as guilty as Iarpo who did the actual act. I therefore find you as guilty of rape as Iarpo Nakat but I will treat you differently. I sentence you to 5 years in prison but this is suspended for a period of 3 years from today.

You will pay prosecution costs in the sum of VT 8.000 to be paid before 30th August 1997. If you fail to pay this sum by the given date, you will go to prison for one day for each 50 VT outstanding after 2 months from today.

You have a right to appeal and you have 14 days.

DATED AT ISANGEL, this 5th Day of JUNE, 1997

BY THE COURT



Justice OLIVER A. SAKSAK
Judge

