

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**
(Criminal Jurisdiction)

Criminal Case No. 159 of 2014

PUBLIC PROSECUTOR
v.
WILLIE HUGGAI TU

Coram: Justice D. V. Fatiaki
Counsel: Mr. D. Boe for the State
Mr. F. Tasso for the Defendant
Date of Sentence: 11 March 2016.

SENTENCE

1. Willie Huggai Tu, you have been convicted of two (2) offences of Incest contrary to Section 95 of the Penal Code in that you had sexual intercourse with your biological daughter on two (2) occasions in January/February 2014 and July 2014.
2. In mitigation you are 46 years of age and a first offender. You are a relatively educated man having achieved year 10 and attended Bouvato Technical School on Efate where you acquired skills in construction, joinery and small business management. You are considered a useful active member of your church and your community.
3. You told the probation officer who prepared your pre-sentence report that you regret your actions and that your life's ambition is for your children to have a better future. Your actions however speaks louder than any words or good intentions you may have towards your children's future welfare.
4. I accept that you performed a kastom reconciliation ceremony to your daughter and families and presented 2 buluks, a kava root, 5 mats and VT5,000. But I cannot ignore your daughter's words to the probation officer that "... even though a kastom reconciliation has been performed, it will never remove the scar inside her ..."
5. The brief admitted facts as outlined by the prosecutor is to the effect that the defendant's sexual abuse of his daughter began in 2004 and continued until July 2014. At the time of the most recent incidents that gave rise to the charges

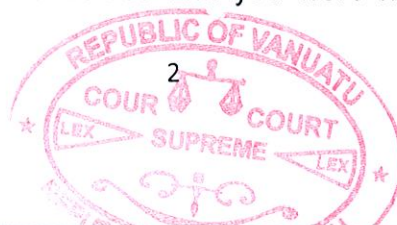


the defendant was sleeping with his mistress and his daughter in a separate house from his lawfully wedded wife. He had sexual intercourse with his daughter in the presence of his mistress and on one occasion made his mistress perform oral sex on his daughter while he was having sex with his mistress.

6. Incest is a very serious offence which carries a maximum penalty of 10 years imprisonment. In your case Willie Huggai Tu, your offending is aggravated by the following factors:

- (1) The gross breach of trust that should exist between a father and his daughter. It was your duty to guide and protect your daughter but instead of doing that you abused her to satisfy your unnatural lust;
- (2) The age difference of 24 years between you a sexually experienced man of 46 years of age and your immature daughter of 22 years is also an aggravating factor;
- (3) The fact that your offending started in 2004 when your daughter was barely 14 years of age and resulted in your daughter becoming pregnant in 2006 at the tender age of 16 years demonstrates your callousness and indifference to your daughter's physical and mental well-being. You had unprotected sexual intercourse with your daughter and when she fell pregnant you threatened to kill her if she did not abort her foetus;
- (4) Again in 2008/2009 your daughter became pregnant and this time she gave birth to a baby girl at Port Vila Central Hospital. When your daughter was interviewed about it by the police she lied to them as to who was the father of her child because you had told her to tell them her child was a "*pikinini blo spirit*";
- (5) During one of the incidents of sexual intercourse with your daughter in the presence of your mistress you assaulted your mistress when she objected to what you were doing. On another occasion you forced your mistress to suck your daughter's vagina whilst you were having sex with your mistress from behind;
- (6) The last incident of sexual intercourse occurred on 22 July 2014 where you threatened your daughter not to report you to the police. You told her when you came out of prison you would kill her and drink the blood of any boy that she was staying with at the time. You told your daughter you would happily make prison your home.

7. Willie Huggai Tu, it is difficult for this Court to find the appropriate words to describe the many years of abuse and terror that you subjected your helpless daughter to. She was defenceless and you were merciless in your repeated




abuse of her. You even subjected her to the additional indignity of having sex in the presence of your mistress and you often threatened your daughter with death to get your way with her. You even threatened to kill any man who went out with your daughter.

8. Although you pleaded guilty it was at the last moment, you originally pleaded not guilty when you were arraigned on 14 November 2014 almost 18 months ago. You cannot receive the full remission for your guilty pleas. Indeed even after pleading guilty you denied using any threats on your daughter and you even suggested that she forced herself on you to have sexual intercourse with you as if to shift the blame and responsibility for your actions.
9. Unfortunately for you consent is not a defence to Incest. Fathers are strictly forbidden by the law under any and all circumstances from having sexual intercourse their daughters whether they be biological or adopted. Fathers who sexually abuse their daughters do not deserve to live in society and will be sent to prison for a long time.
10. For each offence of Incest, I adopt a starting point of 8 years imprisonment. I reduce the sentence by 6 months as this is your first offence and by a further 12 months in recognition of your guilty pleas and the custom reconciliation ceremony you performed making an end sentence of $[8 - (1 + \frac{1}{2})] = 6\frac{1}{2}$ years imprisonment on each of counts 3 and 4 to be served concurrently. Your total effective sentence is $6\frac{1}{2}$ years imprisonment.
11. As required by law a further 4 months is deducted for time spent in custody making a final sentence of 6 years and 2 months. You are also advised of your right to appeal within 14 days against this sentence if you do not agree with it.

DATED at Rovo Bay, Epi, this 11th day of March, 2016.

BY THE COURT


D. V. FATIAKI
JUDGE.

