

PUBLIC PROSECUTOR

-V-

LOWA LAUTA GEORGE (1)
SAM NAMATAK (2)
SIKO NASE (3)
CHARLEY NUMAPEN (4)
IAUALKA SELSEL (5)
ANGELO IAMTIU (6)
JIMMY IARAMASA (7)
(Defendants)

Corum : *Vincent Lunabek CJ*
Counsel: *Mr Tristan Karae for Public Prosecutor*
Mr Jacob Kausiama, Public Solicitor for 7 Defendants

Dates of Hearings: *25 to 28 April 2016*
Date of Verdicts: *29 April 2016*
Date of distribution: *11 May 2016*
Venue: *Isangel, Tanna*

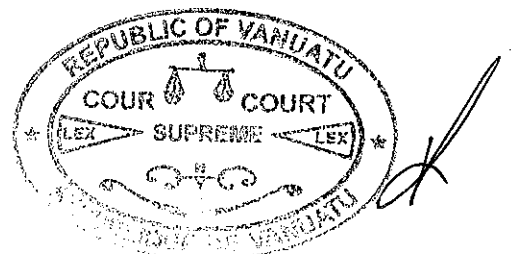
I. INTRODUCTION

1. Choice of Language

1. This is the judgment of the Court. The trial proceedings took place at Isangel, Tanna. The trial was conducted in Bislama. The judgment is written in English and orally translated in Bislama so that the Defendants and all the people who have come to hear the case may be able to know what the Court has done, decided and the reasons for its decision.

2. Nature of charges

2. The Accused Lowa Lauta George, Sam Namatak, Siko Nasse, Charley Numapen, Angelo Iamtiu, Iaualka Selsel and Jimmy Iarmasa were committed to this Court charged with the following offences:

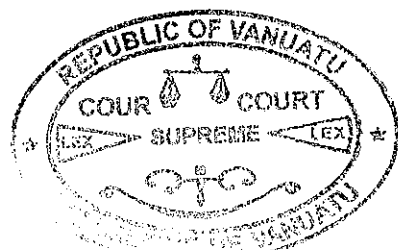


In Count 1: That on or about 10 August 2015, they assembled together at Tanna Lodge Resort premises with other men. They entered Tanna Lodge Resort premises with intent to commit Criminal Offence such as kidnapping two (2) staff employees of Tanna Lodge Resort, namely- Richard Iaruel and Alice Willie, contrary to section 69 of the Penal Code Act [Cap 135].

In Count 2: That on or about 10 August 2015 at Tanna Lodge Resort premises, they used force to remove Richard Iaruel and Alice Willie by transporting them from Tanna Lodge Resort to Ianmarang village without their consent, contrary to section 105(b) of the Penal Code Act [Cap 135].

In Count 3: That on or about 10 August 2015, at Ianmarang village, accused Jimmy Iarmasa made oral threats to Kill Richard Iaruel when he stated: "you ia spos you toktok naoia, you ia mi save kilim ded you olsem wan something nating nomo, mo mi no fraet too long police", contrary to section 115 of the Penal Code Act [Cap 135].

In Count 4: That on 10 August 2015 at Ianmarang village, accused Charley Numapen and Iaualka Selsel made oral threats to kill Richard Iaruel and Alice Willie when they stated to Alice Willie: "Mifala ikam down blong killing ded you mo Richard ia from yutufala nao i stap stanap mo Net ikilim ded Roger so yutufala too mifala i mas kilim ded yutufala", contrary to section 115 of the Penal Code Act [Cap 135].



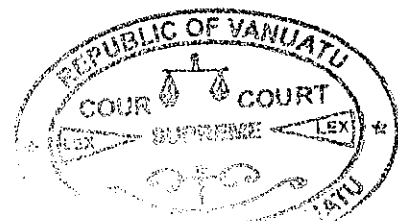
3. Pleas

3. On 4th March 2016, each and all 7 Accused entered not guilty pleas as charged in counts 1, 2, 3 and 4 respectively. These pleas were noted and the trial proceeded on all counts.

II. STANDARD OF PROOF, SELF DIRECTION ON LAW AND ESSENTIAL ELEMENTS OF OFFENCES

1. Standard of proof and self-direction on law

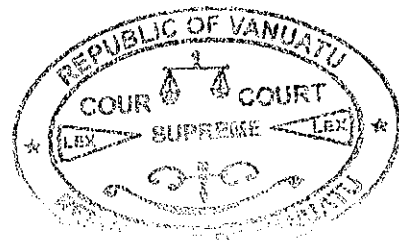
4. This is a criminal jurisdiction in which the judge is both the judge of law and the judge of fact. It is the duty of the judge to apply the law in full so that the Defendants should know exactly so that if the Court has misdirected itself on any points of law, the Defendants would be able to appeal. It is also the duty of the judge to sum up the evidence, that is, to give a resume of the facts, again so that Defendants should know what evidence has been considered by the Court in coming to the verdict eventually.
5. The function of a judge of fact is to consider the evidence with care and to apply the law as the Court stated it to be, to those facts and eventually to come to the verdict.
6. This is a criminal trial and as in every criminal trial, it is for the prosecution who brings the charges to prove them. It is for the prosecution to prove each and every allegation of facts in this case. There is no burden on defence whatsoever. Furthermore, the burden which rests upon the prosecution is a very heavy one. Before the Court can convict any of the



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defendants of any of the charges brought against each and all Defendants, jointly and/or severally, by the prosecution, the Court must be sure of his guilt, nothing else will do. That is the same as saying that the prosecution must prove each of the Defendants' guilt beyond reasonable doubt. If the prosecution fails to discharge the very heavy burden that rests upon him on any or all of the counts as against any of the Defendants to the standard that the Court has stated, then any of the Defendants as against whom any of those charges have not been proved is entitled to be acquitted. In other words, if at the end of the day the Court is left with a reasonable doubt as to any of the Defendants' guilt, then each and any of them be entitled to the benefit of that doubt and be acquitted.

7. In this case, Defendants, Lowa Lautu George, Sam Namatak, Siko Nasse, Charley Numapen, Iaualka Selsel, Angelo Iamtiu and Jimmy Iarmasa are jointly charged upon two (2) counts (unlawful assembly and kidnapping) in this indictment with offences which they can help each other to commit, it is sufficient to support a conviction against any and each of them to prove either that he himself did a physical act which is an essential ingredient of the offences charged or that he helps another Defendant to do such an act, and, that in doing the act or in helping the other Defendant to do it, he himself had necessary criminal intent.
8. The Court therefore has the duty to look at the evidence upon each of these charges quite separately in order to return quite separate Verdicts on each of them as against each of the Defendants' guilt to the required standard upon one or more of the counts, or upon none at all. It does not follow that if any of the Defendants is guilty on one count that he is guilty

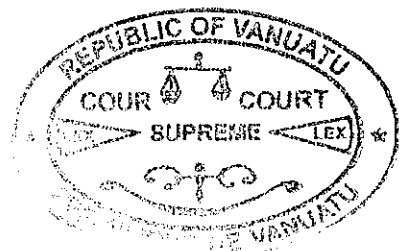


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of all of them, not more than that if any of them is innocent of one count that he is innocent of all.

9. In this indictment, as the Defendants are jointly charged with offences alleged to have been committed by each on the same and not separate occasions, and when they are together, it is not essential for the prosecution to establish that each was acting in concert with the other, it is open to me as the judge of facts, to convict each of having committed independently the offences which are the subject matter of the joint charge. This means that where one of the Defendants who are jointly charged with an offence is acquitted, the others may be convicted of that offence as if they had been charged in a separate count with a separate offence.

10. In this case, each and all the seven Defendants chose to give evidence. They did not need to do so. As in any criminal case, there is no evidential burden at all on the Defendants. The fact that they have given evidence does not mean that any burden whatsoever is cast upon the Defendants. The Defendants could have remained silent in the dock and simply allow themselves to be tried on the evidence called by the prosecution as section 88 of the Criminal Procedure Code Act [Cap 136] which was read and explained to the Defendants makes it clear to that effect. In any event, the Defendants gave evidence; this means that having given evidence, the Court must assess their evidence in the same way as any other evidence given in this case by other witnesses. Because they come from the dock, their evidence is not less important in this case than other witnesses.



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2. Essential Elements of offences

a) Offence of unlawful assembly (in count 1)

11. The essential elements of the offence of unlawful assembly charged in count 1, the matters which the prosecution must prove beyond reasonable doubt before the accused can be convicted on that charge, are:

- 1- The presence of three or more persons who assembled
- 2- Conduct themselves in such a manner as to cause nearby persons reasonably to fear the persons assembled will commit a breach of the peace.
- 3- Intent to commit an offence or intent to carry out some common purpose to commit an offence.

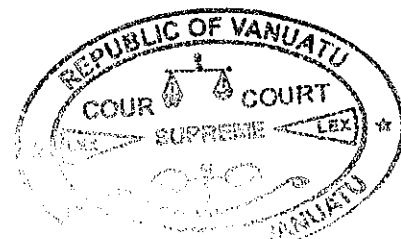
b) Offence of kidnapping (in count 2)

12. The essential elements of the offence of kidnapping charged in Count 2, the matters which the prosecution must prove beyond reasonable doubt before the Accused can be convicted on that charge, are:

- 1- That the complainants Richard laruel and Alice Willie were removed by the Defendants from one place to another place on 10 August 2015.
- 2- That the Defendants compelled by force the removal of Richard laruel and Alice Willie on 10 August 2015.
- 3- That the removal was done without the consent of Richard laruel and Alice Willie.
- 4- That the removal was done without lawful excuse.

c) Offence of threats to kill a person (in count 3)

13. The essential elements of the offence of threats to kill a person charged in count 3, the matters which the prosecution must prove beyond reasonable doubt before the accused can be convicted on that charge, are:



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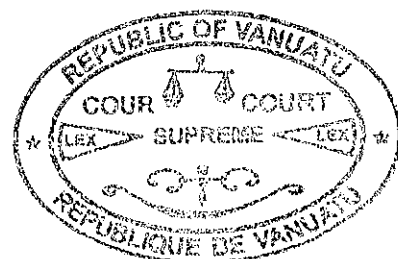
- 1- That Accused Jimmy Iarmasa caused Richard Iaruel to receive oral threats to kill him at Inmarang Nakamal on 10 August 2015.
- 2- That the complainant Richard Iaruel knew the content of the threats.
- 3- That the threats were done to Richard Iaruel directly by Accused Jimmy Iarmasa at Inmarang Nakamal.

d) Offence of threats to kill a person (in count 4)

14. The essential elements of the offence of threats to kill a person charged in count 4, the matters which the prosecution must prove beyond reasonable doubt before the accused can be convicted on that charge, are:
 - 1- That Accused Charley Numapen and Iaualka Selsel caused Alice Willie to receive oral threats to kill Alice Willie and Richard Iaruel.
 - 2- That the complainant Alice Willie knew the content of the threats.
 - 3- That the threats were done to Alice Willie directly and indirectly to Richard Iaruel.

III. ISSUES

15. The basic facts of the case as the prosecution put them were that the Defendants on 10 August 2015, so assembled unlawfully at the entrance of the premises of Tanna Lodge at or about 2.00PM, they removed two (2) employees of Tanna Lodge by compelling them by force to transport them from the entrance of Tanna Lodge to Inmarang village. At Inmarang Nakamal, Accused Jimmy Iarmasa threatened Richard Iaruel to kill him. Again at Inmarang, Accused Charley Numapen and Iaualka Selsel threatened to kill Alice Willie and Richard Iaruel.



16. The Defence challenged the truthfulness of all the allegations against the Defendants. They say they concede that they are part of a big group who attended a meeting at a place called Lapuntan. The purpose of the meeting was to find out from the police about the death of one of their relatives. But they deny any intention to commit criminal offences as alleged in Count 1.
17. In respect to Count 2, they concede that Alice Willie and Richard Iaruel were transported from Tanna Lodge premises to Ianmarang Nakamal. They deny that there was force used. They say Alice Willie and Richard Iaruel went to the truck to Ianmarang willingly.
18. In respect to the offences of threats to kill a person in Counts 3 and 4 they said Accused Jimmy Iaramasa (in count 3) and Charley Numapen and Iaualka Selsel in (count 4) plead general denial.

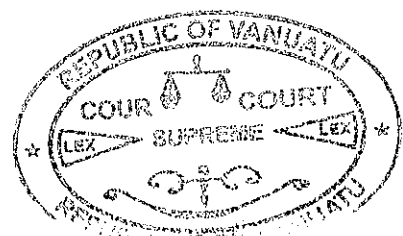
IV. SUMMARY OF EVIDENCE

19. The details of evidence of this case are recorded in the notes of the evidence in the Court file records. Below is a summary of those parts of the evidence which is important to the decision.

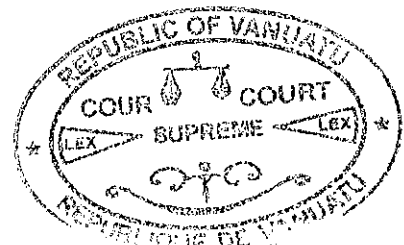
1. Summary of Prosecution Evidence

20. The Prosecution has called 8 witnesses (PW).

The PW1 is Richard Iaruel. He testified he is from Ianakul village, South West Tanna. He works at Tanna Lodge by helping construction of houses. He recalled of the date and events of 10 August 2015. He was at work on that date. He worked in the morning until lunch break. He took his lunch

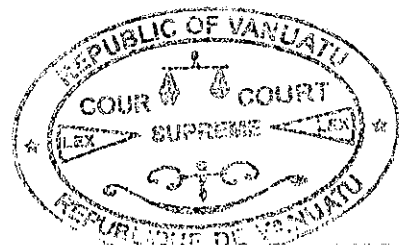


and rested at a corner at Tanna Lodge. He then saw a group of people in the premises of Tanna Lodge. He saw Siko Nasse and two others (Tom Iwa and Napil) shouted at him and told him to go at the entrance road. They told him to go to the road. When they shouted at him, he saw they were angry so he followed what they told him to do. He and other Tanna Lodge employees went to the road which is the entrance of Tanna Lodge Resort. They were asked to be on the other side of the entrance road while those groups of people were on the other side. At the entrance (road) of Tanna Lodge, he saw Kamisak, John, Angelo, Chief Iamtiu, Siko Nasse, Charley Numapen, Sam Namatak and Lowa Lauta George. Some of the members of the group of men held knives, stones and axes. He felt bad and frightened. They talked to him angrily to go to the road. At the entrance (road) of the Tanna Lodge, Lowa Lauta George told them that when he called the names of an employee of Tanna Lodge, that employee must go inside the truck. He identified Lowa Lauta. Lowa Lauta called his name and that of Alice Willie and told them to go inside the truck. He saw they were angry so when Lowa Lauta called his name and told him to go in the truck, he said he must do what they told him to do. He thought they took him away to kill him. Alice Willie was in the front seat of the truck. He was in the back seat. Siko Nasse sat with him in the back seat of the truck. He saw Siko, Charley Numapen, Alice in the truck. Angelo was the driver of the truck. He said Jimmy Iaramasa, Sam Namatak and Lowa Lauta were not in the truck with them. The truck took them to a Nakamal at Ianmarang village. Siko told him to go to the Nakamal. He said he did not know where he was. He just followed them. He said he was afraid and thought they were going to kill him. Once at the nakamal, Siko said they will question him. Siko told him he was lucky he was taken by them because if he was taken by the other



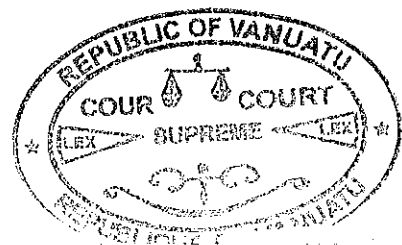
group, they will kill him. He told them he did not know anything about the death they mentioned Roger's death. They questioned him and told him that he must have known about the death. He said he told them he did not know about the said death. He was told he must give a good answer otherwise they will remove his clothes, fasten his hands and legs.

21. At the nakamal, Siko Nasse, Charley Numapen and Iaualka Selsel were there. When he was questioned, Alice was still in the truck. They questioned Alice Willie after they finished with him. They questioned him about 1 hour. They told him they waited for Angelo to arrive back at Iauamarang at about 4.00PM. Angelo told him to take back Alice Willie first. They took him to Ivankula Nakamal. At Ivankula Nakamal, Jimmy Iarmasa threatened him with those words: "you ia mi save kilim you i ded olsem one something nating nomo. Mi no fraet too lo police." Iarmasa told him of these threatening words while standing and walking in the Nakamal and his people were sitting around in the Nakamal. He felt very bad and frightened. He did not say anything and he could not say anything.
22. Then Sam Namatak told him (PW1) that his brother Jeffery Iaruel Tupas wanted to see him. He went to see his brother Jeffery Tupas who was in the Public Works Truck. His brother took him back home. One William drove the public works truck. He filed his complaints against the Defendants on the next day of the incident.
23. Richard Iaruel (PW1) was cross-examined. He confirmed his evidence he saw Sam Namatak and Siko Nasse in the premises of Tanna Lodge Resort. They were inside the premises of Tanna Lodge. They shouted and called on



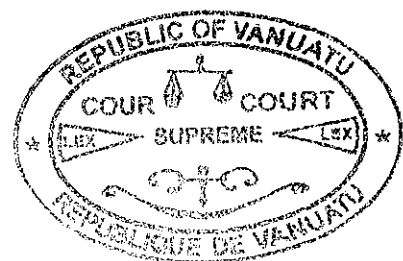
him to come outside the area of Tanna Lodge to the road at the entrance of Tanna Lodge. He confirmed he saw accused Lowa Lauta George, Sam Namatak, Siko Nasse, Charley Numapen, Angelo Iamtiu but he did not see accused Jimmy Iaramasa. He also saw others. He did not see the Defendants holding weapons. He saw one Napi held stones when Tanna Lodge employees were directed to go to the road at the entrance. He said Napil is not with the seven (7) accused. He was asked he confirmed his evidence that Sam and Siko told him he must go to the entrance road to see Chief Iamtiu. He repeated his evidence that at the entrance of Tanna Lodge, there were more people. Lowa Lauta told Tanna Lodge employees that if he called the name of an employee, he or she must go to the truck. Lowa Lauta called his name and told him to go hurry in the truck. He said when Lowa Lauta called his name and told him to go hurry in the truck he saw Siko Nasse moved closer to him to go inside the truck. He said because if he stood back Siko will do something to him so he went inside the truck.

24. He was asked that the Defendants did not do any actions on him. He answered Lowa Lauta talked to him directly and some others too talked to him he mentioned Siko Nasse. Other accused did not talk to him at Tanna Lodge. He was asked he said he was afraid of the group of the Defendants and he mentioned Siko Nasse. When he was asked to go in the truck he must go inside the truck. Angelo Iamtiu was the driver of the truck. Angelo did not talk to him. Siko sat with him in the truck. In the truck he saw Alice, Angelo, Siko. He did not know who else was at the cart of the truck. When the truck arrived at Ianmarang village, he saw Charley Numapen. When the truck took off, nobody talked until they arrived at Ianmarang. There, the truck stopped on the road. They went to a nakamal. There were plenty of



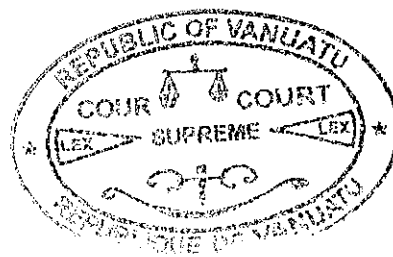
people. The truck returned, Siko Nasse questioned him at lanmarang Nakamal. There were 11-12 people at that time. Siko questioned him and laualka Selsel told him he must say 'stret toktok nomo'. At lanmarang, Siko, laualka and Charley Numapen talked to him.

25. It was put to him that the allegations that Charley Numapen and laualka Selsel threatened to kill him were not true as those two accused did not make the said statement to him. Richard answered that Charley Numapen and laualka Selsel told him they took him away to question him but if the other group took him, they will kill him. He was asked and he denied he saw accused Jimmy Iarmasa at lanmarang but he said he saw Iarmasa at Ivankula Nakamal where there were plenty of men. There were more men at Ivankula Nakamal than men at lanmarang Nakamal. It was their main place. Some drink kava and they questioned him with their chief. They talked about the issue of the death of the young boy in that nakamal as he explained he saw the chiefs and every young men of the village were there at the Nakamal. He said when they took him to the Nakamal, Chief Iamtiu Wilson told him that it was him who requested the others to take him away and questioned him. It was pointed out to him that he did not make that statement in his statement to the police. He insisted he told the police of this but the police did not record in the statement. It was put to him that Accused Jimmy Iarmasa who is about 80 years old never threatened to kill him as he alleged. Richard responded that he could not tell lies. He has promised on the bible to tell the truth. Accused Iarmasa threatened him when he said: "you ia sipos you talem one toktok naoia bae mi save kilim you ded nowia osem one something nomo. Mi no fraet too lo police." He said Iarmasa is a chief.

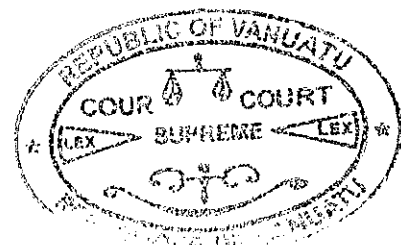


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26. PW2 – Alice Willie gave evidence to the following effect. She is from Ianakul village, south west Tanna. She does not work now. She stays at home. In 2015, she worked at Tanna Lodge Resort. She finished work there on 10 August 2015 at the time of incident. She said on that date, she was at Tanna Lodge Resort. There were hips of men coming at Tanna Lodge. It was about 2.00 o'clock in the afternoon. She was at the store room. She said she was arrested and taken to a chief who was at the roundabout entrance of Tanna Lodge. She came at the bar and her uncle told her she did not respect him. She mentioned Kamisak as the uncle she referred to. One Ken told her 'Alice you go wea- you go lo main gate lo round about'. She runs to the entrance gate with Auntie Mary, mammy Pauline and, mammy Leonie. She saw the Tanna Lodge staff and hips of men there. There were over 100 men. These men came to arrest them. These men talked to them (Tanna Lodge staff). They held knives. She knew some of them. At the entrance road of Tanna Lodge when she and other staff of Tanna Lodge were directed to be on one side of the entrance road, she said she saw all the seven (7) accused at the entrance at the time. At the entrance of Tanna Lodge Resort, after the Tanna Lodge employees were assembled on one side of the entrance, she said Sam Namatak and Lowa Lautu George told her to go inside the truck. Sam Namatak told her and Richard Iaruel to go inside the truck. Lowa Lautu George told her to jump into the truck. She was afraid because it was the first time for her to see and go through something like this. When they told her to get into the truck, she went inside the truck. When she was asked about her thoughts at that time when she went inside the truck, she said: "Mi fraet mo from se full up man oli stap raonem mi, mi surrenda nomo mi go inside lo truck."



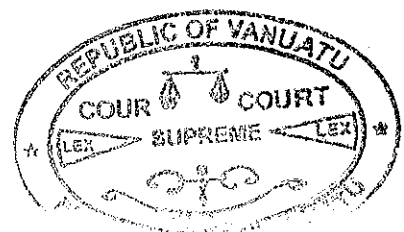
She sat in the front seat with the driver, she identified as the accused Angelo Iamtiu. Her uncle Richard and Siko Nasse sat in the back seats. She also saw one Charles See, one Sam Iakar in the truck and Accused Iaualka and Charley Numapen in the truck. She said apart from Richard and Siko who sat in the back seats, the others sat in the cart of the truck. When the truck took off, they were not talking until they arrived at Ianmarang village. She was afraid. At Ianmarang village, she said Accused Charley Numapen, Iaualka and Siko told her they will ask her questions and they wanted her to answer these questions. They told her if she answered correctly, she will go back. If she answered wrongly she saw the hips of men who came to Tanna Lodge Resort, they came because of her and her uncle Richard. She said they did not tell her of the reasons she and Richard were taken by them. Accused Charley Numapen asked her questions about Ned's walking around and of his surroundings. Ned is Tanna Lodge Resort Manager's son. She said she did not know. She told him of what she did on Friday. At Ianmarang, she saw the accused who questioned her and she saw also others she recognized one Apil and his wife. She did not know who asked questions to Richard. She said they took her uncle Richard into a small nakamal and she was questioned outside. She said they told her that if she said she was also part of the group which was involved with the death they will fasten her hands and legs against a tree until she will be brought to court. She was at Ianmarang for one hour. She was afraid and she answered all the questions they asked her. She repeated she was afraid as it was the first time for her to go through something like this. She said Angelo drove her back to the road to Tanna Lodge Resort. They went to Ivankula. There were Angelo (driver), Siko, Charley Numapen, Iaualka, Richard and Kapiako. Richard got off the truck at Ivankula with one Kapiako.



She returned back to Tanna Lodge Resort. She lodged her complaints to the police on 15 August 2015.

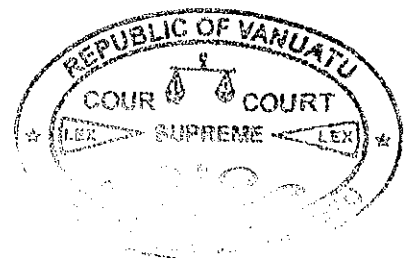
27. Alice Willie was cross-examined. She confirmed her evidence that all of the seven Accused were present at Tanna Lodge Resort entrance round about. She saw all of them. She saw all of the Accused but only two of them called her to go inside the truck (Sam Namatak and Lowa Lauta George). None of the accused held weapons at the entrance of the Tanna Lodge Resort. She confirmed Siko, Charley Numapen, laualka and driver Angelo were in the truck. She was asked and she said Sam Namatak and LowaLauta George forced her to go inside the truck. She answered: "Tufala italem se bae mi hurry up mi go lo truck." She confirmed her evidence that at Ianmarang, Siko, Charley Numapen and laualka talked to her. Siko told her they questioned her on her walkabouts as they came to Tanna Lodge Resort earlier because of her and Richard. She confirmed her evidence that if she answered correctly to their questions she will return. If she did not answer the questions correctly, they will fasten her legs and hands until she was brought to court. Siko, Charley Numapen and laualka Selsel told her that they questioned her on her walkabouts.

28. PW3 is Collin Iaruel. She is from Ianakul village. She is not working now. In 2015, she worked at Tanna Lodge Resort as House Keeping. She testified that she recalled the date of 10 August 2015. She had lunch at the bar with other Tanna Lodge Resort's employees. She and others heard the group of man called them out to come outside. She was at the swimming pool. She saw Sam Namatak who talked to her. Sam told: "you no shame se you stap go work lo time ia." She did not talk. He was serious. She did not answer

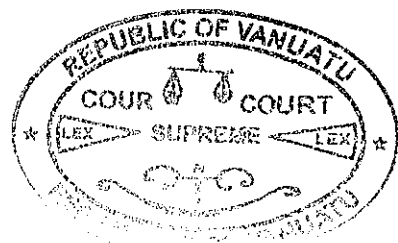


him. Sam told them to go at the roundabout entrance. Sam did not give them any reasons. She saw so many at the swimming pool but she only recognized Sam Namatak who told her to go to the road at the entrance.

29. When she came at the entrance road, she saw Chief lamtiu (who was sitting there), Kamisak, Sam Namatak, Marauta, Kwekpen, Siko, laualka and Lowa Lautu. She was asked as to how she felt that time. She said: "Mi harem se mi fraet we mi fraet we mi fraet." She said she saw some followed the beach, some followed the creek and others came down from the steps. She said there were about 200 men. There were plenty of them. She was so afraid she could not see if they held weapons. She only saw one with an axe at the entrance were they called Richard and Alice to go in the truck. The men who held the axe she described as '1 small Noel we i holem axe.' At the entrance she saw Lowa Lautu, Sam Namatak, Siko Nasse, Charley Numapen and Angelio (the driver). She knows the Accused persons as they are members of her family. She and the members of the Tanna Lodge Resort were at the entrance road when the truck of Angelo came. Lowa Lautu called her brother Richard and Alice to go inside the truck. She said Lowa told the two to get inside the truck. She said she heard one Kwekpen said: "youfala small nomo be youfala maken strong head tumas." They called the name of Richard and Alice and they went inside the truck. She did not see any men who took them inside the truck. She saw Siko and laualka in the truck. After, the truck left, they were told there will be 2 or 3 trucks to take them all. She said Lowa Lautu said so. She said she saw Jeffery Tupas arrived in a truck. Jeffery talked forcefully to these men and they no longer took them. The Police truck also arrived. She confirmed her evidence in chief.



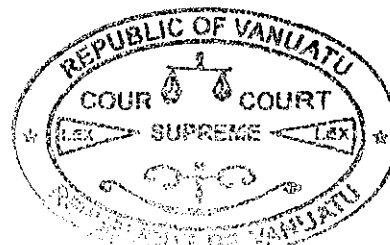
30. Collin Iaruel was cross-examined. She confirmed her evidence that Lowa Lautu and Sam Namatak called the names of Richard and Alice so seriously that they just walked into the truck. She confirmed her evidence in chief.
31. PW4 is Tain Nalau. He is from Ianakul village, west Tanna. He was then the Builder of Tanna Lodge Resort. Now he works for ICC Company. He finished work for Tanna Lodge Resort after the incident of 10 August 2015. He testified that at lunch time on 10 August 2015, he rested. He was with one of his brother. They heard voices of people coming inside the area of Tanna Lodge. There were plenty people at the time. They talked angrily to them and told them to go up to the entrance round about. Siko Nasse talked to them in the area of Tanna Lodge Resort. He identified accused Siko Nasse. They put some of the employees of Tanna Lodge Resort in the middle and some on the otherside of the roundabout. He said at the time when they called them and shouted at them, he was terrified. There were so many of them and if he said something, he said they will kill him. He explained when they came in the Tanna Lodge Resort area, they surrounded the area of Tanna Lodge Resort, they shouted at them and they called out angrily at them. He was not focusing on what they hold as he watched their faces. He was with other employees of the Resort. He saw Siko and some of the accused persons in Court. These men pushed them to the road at the entrance of the Resort. He was in front. Lowa Lautu and others talked to them. He saw Siko, Sam Namatak, Charley Numapen, laualka and many more. He knew the accused persons sitting in Court. Lowa Lautu directed them to sit down. The truck will drop each of them in an area. He said until today he never knew what Lowa Lautu meant. He



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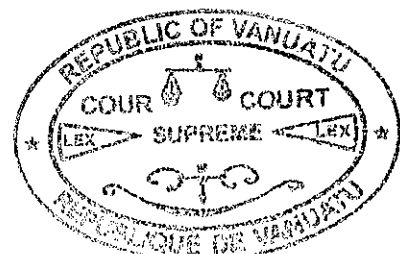
said Lowa Lautu gave command by directing the two to jump into the truck. He described that Lowa Lautu talked and directed the two by walking in front of the truck and in front of the staff of Tanna Lodge Resort. He then saw Richard and Alice were afraid when they walked and got into the truck. He saw others supported what Lowa Lautu said that the two must go inside the truck. They talked to them (staff) angrily and there were lots of them. The truck was a double cabin. He saw they opened the door of the truck and Alice went in the truck. He saw also that Richard went and sat in the truck. When the truck started to move, he saw some boys jumped into the cart of the truck, he saw Siko, laualka, Charley Numapen and Angelo (the driver). The truck belongs to Chief Iamtiu. After the truck left, Lowa Lautu talked strongly to him that they will be the next and they must be ready. He said he could not say anything because the words and the attitudes (fashion) were so hard and serious. Lowa Lautu told him to get ready with his brother Daniel Nalau to be the next. He said when Lowa Lautu directed them; Jeffery Tupas arrived and talked strongly to Lowa Lautu. Jeffery Tupas asked Lowa Lautu as to who gave him and others the power or order of arrest to come and arrest these people. He saw Lowa Lautu was slowing down in his directions. The Police arrived and talked to them and they left. He made his statement to the police on the next day of the incident.

32. Tain Nalau was cross-examined. He confirmed his evidence in chief. He was asked and he clarified his evidence that when he said they were pushed to the entrance of Tanna Lodge Resort, he meant that they were not physically pushed but because their voices and tone were so serious that they caused them to move to the entrance of the resort. He was asked he saw any of the Defendants or any holding Richard and Alice into the



truck. He said Richard and Alice walked into the truck but Accused Siko was just behind the two. He said Siko followed the two to the truck and he also jumped into the truck. Iaualka, Charley Numapen too jumped into the truck.

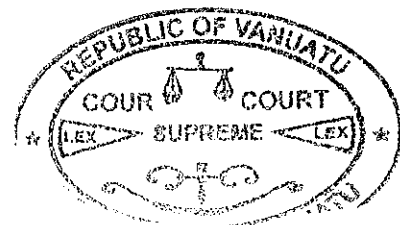
33. PW5 is Jeffery Iaruel Tupas. He is from Ianakul village. He works as Site Inspector of Public Works for a period of 8 years. He remembered the date of 10 August 2015. On that date, he and one William Yeliah, the Senior Foreman of the Public Works left the Public Works office with the red truck of Public works driven by William Yaliah. They left to attend an issue arising at the road side with the Chinese company at the south. They arrived on the road from Tanna Lodge to up to Numepen road; he saw at the Tanna Lodge Resort compound, there were about 100 people assembled there. He saw Lautu George who stopped the Red Truck he was in. He recognized him. Lowa stopped the Red truck of the Public Works. Lowa Lautu told him "Sele sele" in his language it means "stop stop". Lowa told him to get out of the truck. Lowa told him to move where Tanna Lodge staffs were. After he had moved, he heard 2 or 3 men mentioned that they were getting trucks to take him and others. He saw sam Namatak, Kamisak, some accused have already taken Richard. Lowa Lautu and Kwekpen were the main spokesmen for them. They wanted to put him with Tanna Lodge staff. He said he told and asked Lowa Lautu as to who give him (Lowa) permission to arrest him. He said Lowa Lautu said "hala hala" means he must take him. He said they were angry at that time. He asked Lowa Lautu as to who gave him permission to arrest him. He asked for the warrant of arrest. He said when he asked and told them about this, they did not take him anymore. He described the Tanna Lodge Resort staff were afraid. There were lots of



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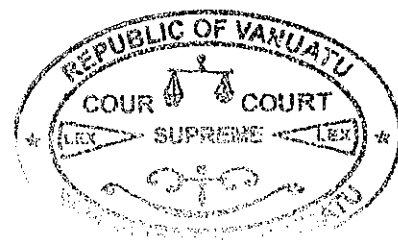
people at the time. If they (staff) did anything, they will be attacked because the group of these men called them to the entrance grouped them together. He said after one hour, he was with the staff of Tanna Lodge Resort. The Defendants did no longer arrest him. He and others went back to attend the issue arising at the road in the South. He was asked about Richard Iaruel. He said Richard is his junior brother. When he arrived, he was told they have taken Richard away. He said after the meeting of the issue of the road in the South, and then he went to Ivankula Nakamal of Chief Iamtiu Wilson. The red truck stopped. He saw Sam Namatak and asked him about Richard. Sam told him Richard was in the nakamal. He told Sam Namatak to ask Richard to come to the truck. Richard arrived. He asked Richard to come back with him as the situation was still afresh. William drove the red truck. They came back with Richard and him at his home. He made his statement to the police 2 or 3 days after the incident.

34. Jeffery Tupas was cross-examined. He confirmed his evidence in chief. He was asked he said the Defendants and others planned to do this. He saw the Defendants and others held a meeting on 10 August 2015 at a Nakamal. He said he was told the Defendants and others planned to come at Tanna Lodge Resort at a date. One John who went back to Port-Vila told him of the plan.
35. In his re-examination, he confirmed his evidence that there was a meeting at Lapantan Nakamal by the defendants and others on 10 August 2015.
36. PW6 is William Yaliah. He is from Epi Island. He is the Senior Foreman of the Public Works on Tanna. He worked on Tanna for 7 years. He recalled



the date of 10 August 2015. Between lunch and 2.00PM o'clock on 10 August 2015, he received a phone call from his boss to drive Jeffery Iaruel Tupas to Imakuel because of an issue of road there. They left the Public Works at about 3.30PM. He drove the Public Works red truck. Jeffery was in the passenger seat when they passed Bethel village, he saw there was a big group of people in front of Tanna Lodge. There was a group on one side. The Tanna Lodge staff was on the other side. The police was in the middle of them. These people were approaching and asked Jeffery Iaruel Tupas to get out of the truck. He saw they raised their voices. He was in the truck and if there was anything happening, he would have to take off. He was there for about 30 minutes. There were lots of people. They eventually went to attend the road issue in the south. They finished the meeting at 5.30pm. They dropped an old man to his house and they stopped at Ivankula nakamal. Jeffery sent two young men who came with them in the truck. They came with Richard back home.

37. PW7 is a Police officer Timothy Alie. He is a police officer with the rank constable for 6 years. His main work is to attend a crime scene, assess the situation, and conduct investigations. He recalls 10 August 2015; he received a phone call from the owner of Tanna Lodge Resort. There were a group of men at the entrance and they wanted to remove the employees of Tanna Lodge Resort. They attended the scene. When they arrived at the entrance of Tanna Lodge Resort, there were plenty of men there. Some of them held knives, stones and axes. There were about 30 men standing at the entrance. He says he saw all of the seven accused there. He said they assessed the scene. They tried to talk to these men. The men could not listen to them (police officers). Police Officers were outnumbered. They did



not make anything. They did not arrest because they were afraid that these men will retaliate. They witnessed some of these men took away two of the staff of Tanna Lodge Resort. They were at Tanna Lodge Resort for half an hour, and after some of the accused removed two employees of Tanna Lodge, police officers withdrew back to the Police station at Isangel, Tanna.

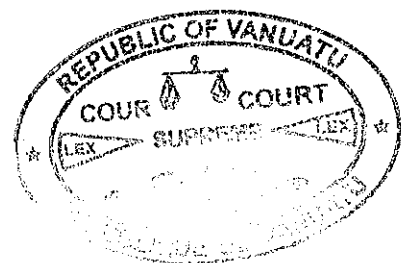
38. He was then involved in taking the statements from following three (3) Accused:

- Siko Nasse on 20 August 2015 (Exhibit P1)
- Sam Namatak on 20 August 2015 (Exhibit P2)
- Lowa Lautu George on 20 August 2015 (Exhibit P3)

39. In his cross-examination, he confirmed he cautioned the three (3) accused. He was asked he said the number 30 he mentioned were the number of employees of Tanna Lodge Resort. He said among the seven (7) accused, one accused was no present at the scene of crime at that time. He identified (the green T-Shirt) – the 7th in the row of the accused) Jimmy Iarmasa. He was asked and he said he did not investigate this case. Police officers, who came from Port-Vila, investigated the case.

40. PW8 is Julian Ben; she was the last prosecution witness. She is a police corporal. She works in Tanna as a police officer since 2001. She remembered the incident of 10 August 2015 at Tanna Lodge Resort. She was involved in cautioning some of the accused and she took the statements of following accused:

- Iaualka Sessel on 20 August 2015 (Exhibit P4)



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-Charley Numapen on 20 August 2015 (Exhibit P5)

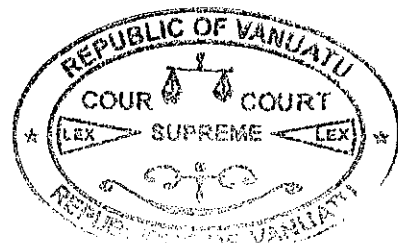
-Angelo Iamtiu on 20 August 2015 (Exhibit P6)

-Jimmy Iaramasa on 20 August 2015 (Exhibit P7)

41. Police Corporal Julian Ben was cross-examined. She confirmed her evidence in chief. She cautioned the Accused. Apart from receiving the statements of accused, she also took part in the investigating of this case. She was not part of Police team attending the scene at Tanna Lodge Resort. She was asked to explain how the seven (7) accused were identified. She explained that one of the complainants lodge complaint against the seven (7) accused. There was no further investigation. That is the prosecution evidence.

2. Summary of the Defence evidence

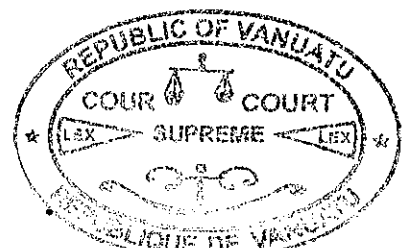
42. The seven (7) accused elected to give evidence. They called an additional witness to testify on their behalf. The Defence called 8 witnesses (DW).
43. DW1 is Lowa Lauta George. He did not know his age. He is married, has three (3) children. He remembered about the incident of 10 August 2015. In the morning of that date, he attended a meeting at Lapantan with Sam Namatak, Siko Nasse, Charley Numapen and Iaualka Selsel. There were also the groups of Kamisak. There were not too many people attending the meeting. They had the meeting with the Police. The police officers present –Inspector Rex, police officer Ketio and another officer he could not remember his name. At the meeting, they talked about the death of Kamisak's son. The meeting was about one hour. After the meeting they walked back home. On their way home, they remembered a story from



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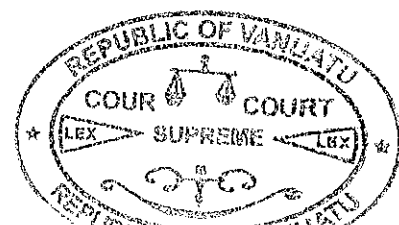
Chief Charley Simil who told them that if they went to the meeting and if the police told them that the police did not find who killed Roger, to get the right information about the death, they could get the information from Richard and Alice. They then went to Tanna Lodge. At Tanna Lodge, he called Richard and Alice to go inside the truck. He said he called the two and they walked quietly into the truck. He called them twice. He denied he called on any other person. He denied he called Jeffery Iaruel Tupas on 10 August 2015. He denied talking to Tupas. After Richard and Alice were taken, he went to Ianmarang.

44. Lowo Lautu George was cross-examined. He was asked and he confirmed that they talked about the death occurring on 18 July 2015 at the meeting held at Lapantang. He was asked that at the time of the meeting, they felt sad about the death why they talked to the Police about the death. He denied they were angry when they attended the meeting. They come to see the Police about the death of a boy Roger. Roger died on 18 July 2015 and he said they did not know. He was asked and he said police told them to help the police to find out who killed Roger. He estimated they were 40 men attending the meeting. The father of late Roger also attended the meeting. He admitted that they have no good feelings because they did not know who killed Roger. He admitted they were not satisfied with the answers given by the police. After the meeting, they went to Tanna Lodge Resort. He admitted at that time Accused Sam Namatak, Siko Nasse, Charley Numapen and Iaualka Selsel walked with him to Tanna Lodge. Chief Iamtiu also was with them. Chief Iamtiu is their big Chief. He was asked and he admitted that before they attended the meeting, they knew already of the story told by Chief Charley Simil. The story was that if they



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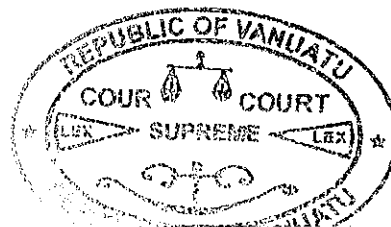
wanted to know about the death of Roger, they can ask Richard and Alice. After the meeting, they went to Tanna Lodge Resort to get Richard and Alice. He was asked he did not answer to the question his group surrendered the area of Tanna Lodge Resort. He admitted his group removed the staff of Tanna Lodge from work to the main entrance road. He was asked but he did not answer if he has the right to remove an employee of Tanna Lodge Resort from work. He was asked as to who sent him to remove the staff of Tanna Lodge Resort, he did not answer. He was asked and he did not answer as to who sent the big group to Tanna Lodge Resort. He was asked if they walked to Tanna Lodge Resort without thinking and called out the staff, he did not answer. He said they called out all the staff of Tanna Lodge to come to the entrance road. He denied he called Richard and Alice to go the entrance road of the resort. He admitted he called them to get into the truck. He did not answer to the question that their conduct at that time made the staff of Tanna Lodge Resort afraid. The question was put to him Five (5) times. He did not answer. He was asked he admitted he called Richard and Alice two (2) times because the first time he called them, they did not go to the truck. He called them again for them to go into the truck. It was put to him whether he knew he was forcing them. He did not answer. He was asked and he said they walked normally into the truck. He was asked he said he did not know who got into the truck with Richard and Alice. He denied the truck was with them from the meeting to the time they came to the resort. He saw Richard and Alice in the truck of Chief Iamtiu and it was driven by Angelo who is the son of Chief Iamtiu Wilson. He denied that Chief Iamtiu sent them to remove Richard and Alice. He was asked and he did not know where they took Richard and Alice to. He was asked as to where Richard and Alice would be taken after



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he called them into the truck. He did not know. He was asked if he has the power to remove Tanna Lodge Resort staff, he did not answer.

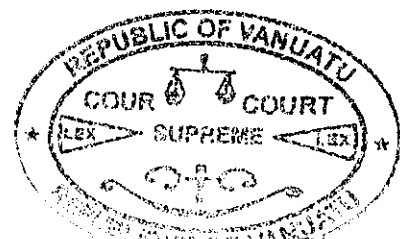
45. DW2 is Sam Namatak. He is 47 years of age. He is married. He has 5 children. He is from Ivankula village. He remembered the 10 of August 2015 and the incident happened on that date. He said on 10 August 2015, he attended a meeting about the death of his brother Kamisak's son. Three (3) police officers were there. Rex, Ketio and Pierre. Lowa Lautu George, Siko Nasse, Charley Numapen and laualka Selsel also attended the meeting. Kamisak and Kaly Remy also attended the meeting. Others also attended the meeting. He said there were more people attending the meeting than the crowd of people in the court house. The meeting was for the police to tell the family of the dead person as to who killed the person. He said the death occurred; the police must help them with the death of Namatak Roger. The police told them that they did not find who killed Roger. He said the police asked them to help finding who killed Roger. He said at the time, his heart was troubled. He walked on the road with Lowa Lautu, Siko, laualka, Namatak Kamisak and Remy Kaly after the meeting. He did not know where others have gone. On their way, they went to Tanna Lodge Resort. They saw Richard and Alice inside the area of the resort. He remembered the story told by Chief Charley Simil that Richard and Alice knew about the death of Roger. At the time, his heart was heavy and troubled. He did not hold any knife; he went inside the resort area and talked to Richard and Alice. He told them to move and come at the entrance road. He said he talked to them quietly. He followed them to the entrance of the resort. He saw Richard and Alice walked into the truck. He did not know who called Richard and Alice to the truck. He did not hear



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any one calling Richard and Alice to go into the truck. He was asked and he accepted that when Richard and Alice went in the truck, he was at the roundabout entrance of the Tanna Lodge Resort. He was asked he denied he got into the truck to Ianmarang. He said he walked to his house at Ivankula nakamal.

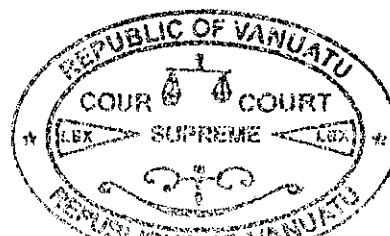
46. Sam Namatak was cross-examined. He said police arranged the meeting for them. He walked to attend the meeting. He confirmed there were lots of people at the meeting more than the crowd in the court. He was asked he confirmed that he felt bad. His heart was troubled because the dead boy has the same Family name than his. They asked the police if they found out who killed Roger. He said the police told them they did not and the police asked them to help the police. The meeting took place at the nakamal of Roger who died. He knew Lowa Lautu, Siko Nasse, Charley Numapen and lauauka were at the meeting because they were mourning the death and all of them were together in the village before they came down to the meeting. After the meeting, they walked to Tanna Lodge Resort. He walked to Tanna Lodge Resort. He walked in the middle of the group. He did not know if Chief Iamtiu followed them. He admitted they heard a story of a chief about Richard and Alice. They followed the main road to go to the resort. He admitted he went inside the area of Tanna Lodge Resort. He did not know if others also went inside. Every staff of the resort were at the entrance of the resort. He was asked if he was the only one who went inside and chased the employees to the entrance, he did not answer. He admitted all the staffs of the resort were at the entrance of the resort. He was asked he shouted and called on the staff of the resort to come outside. He did not answer. He was asked he removed Richard and Alice to the



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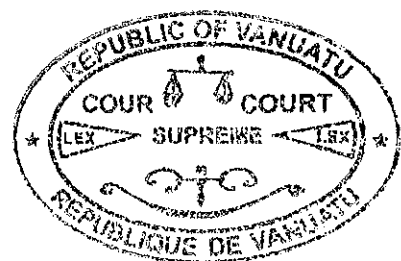
entrance. He did not answer. He said he called them to come outside. He was asked as to who sent him to call Richard and Alice, he said no person sent him. At the entrance of the resort, Lowa Lautu, Siko Nasse, Charley Numapen, Iaualka Selsel and Namatak Kamisak and Remy Kaly were there. He was asked he said Richard and Alice walked into the truck. He did not know that Lowa Lautu called them to go into the truck. It was put to him that at the time, they forced Richard and Alice into the truck. He did not answer. He denied he forced them. He was asked whether it was right to remove Richard and Alice, he answered: "lo taem ia, heart blo mi ino gud. Taem mi go insaed, mi no save se mi mekem one rubbish fashion." He did not know who else was in the truck. Angelo drove the truck. He denied they arranged for Angelo to transport Richard and Alice.

47. DW3 is Siko Nasse. He did not know his age. He is married with 6 children. He recalled the date of 10 August 2015 and the incident occurring on that date at Tanna Lodge Resort. On that date, he attended a meeting at Lapantan Nakamal between the chiefs and the police. The police arranged the meeting about the death of Roger. There were lots of people attending the meeting. He and four other accused attended the meeting – Lowa Lautu, Namatak Sam, Charley Numapen and Iaualka Selsel. 100 people attended the meeting. Police Chief Inspector Pierre mo Petio (prosecutor) attended the meeting. At the meeting, the chiefs asked police about the death of Roger. The chiefs asked the Police whether the police found who killed Roger. The police said no. The chiefs said it was too long police did not find who kill Roger. Police asked them to help the police to find who killed Roger. The meeting lasted for 1 hour. They followed the road to Tanna Lodge Resort. Some went first others followed as there were many



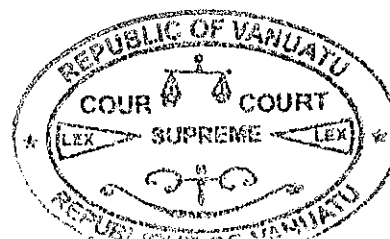
of them. He said when the police said they will help them; they got a story from a chief who mentioned Richard and Alice, that if they removed the two they could tell them who killed Roger. They thought about the story told by Chief Charley Simil. They went to Tanna Lodge Resort to take them away and questioned both of them. He said Chief Charley Simil told them to take Richard and Alice away. At Tanna lodge resort, when they were there, he was standing at the head of a Christmas tree. He said he did not go inside the area of the resort. The Christmas tree he was standing close to was at the entrance of the resort. Richard and Alice came into the truck and they left. Lova Lauta called both of them to go inside the truck. Charley Numapen, laualka and him jumped into the truck. The truck took off to Inmarang village.

48. When they arrived at lanmarang, he briefed Richard and Alice in a church. He told them to ask them questions about Roger's death. He said he told them not to be afraid as he took them in a church. He would ask them some questions and then they would go. He told them to move to the nakamal. He and Richard were in a house. He asked them questions on the basis of the story of Chief Charley Simil that Richard and Alice can help them find who killed Roger. Richard said he did not know about the death of Roger. He saw the two others questioned Alice outside. He said Richard and Alice said they did not know who killed Roger but they mentioned two names Jack and Katen maybe they knew something. He said after that they have some food; they gave a piece of cake to Alice. He told Richard to go with him in the nakamal. They would drink kava because he took him away to lanmarang.



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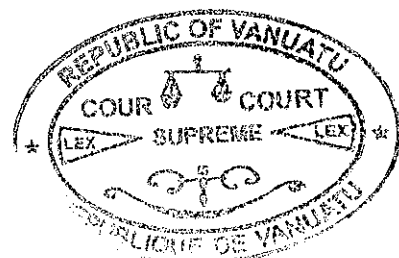
49. Siko Nasse was cross-examined. He is from a chiefly line. His ground father Jack Naiva was a chief. His father is a chief. He is from Ianmarang village. He was asked he said they walked from the village to the meeting at Lapantan nakamal. There were lots of chiefs at the meeting from Lowinio, Isla, Namatautu, Manapla and lakwe. They attended the meeting to find out who killed Roger. The late Roger is his uncle. Roger's father was there. Chief Iamtiu also was there. They were not happy when the police told them that they could not find who killed Roger. Police asked them to help the police. He said he and others moved out from the meeting first. He admitted that when they came out from the meeting, they had in mind that they must go and take Roger and Alice. He was asked he denied he talked to Richard at Tanna Lodge Resort. He denied they took the resort staff to the entrance road. He said he was at the entrance at a Christmas tree when Richard and Alice went into the truck; he went into the truck with them. It was put to him he lied in court as he removed Richard from the resort. He denied that. It was put to him that he was not at the Christmas tree when Richard and Alice went in the truck as he was one of these who jumped in the truck with them. He said he was at the Christmas tree. He admitted Lowa Lautu called Richard and Alice to the truck. He did not know if what they did was right or wrong but it was the story of Chief Charley Simil. It was put to him and he said he does not know whether the staffs of the resort were afraid of their conducts but it was the story of Chief Charley Simil. He denied their actions caused Richard and Alice fear. He said he told Angelo to take the two (Richard and Alice) to Ianmarang. He denied he was leading the group. He admitted he questioned Richard at Ianmarang because they were family. He was asked he told Richard they will remove his clothes; they will fasten his legs and hands to a tree. He answered:



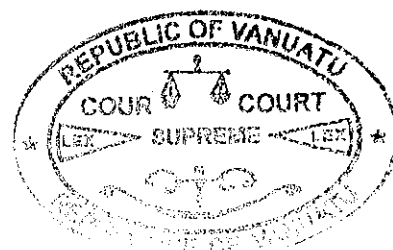
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“mifala ino sakem ol toktok ia”. It was put to him they said the same thing to Alice. He denied.

50. DW4 is Charley Numapen. He is married. He has 5 children. He does not know his age. He is from Iapasip villag. On 10 August 2015, he attended a meeting at Lapantan nakamal. He attended the meeting with Lowa Lautu, Sam Namatak, Siko Nasse and Iaualka Selsel. There were plenty of men at the meeting. The meeting was about the death of Roger. He said the Police called the meeting. They attended the meeting to find out from the police if the police have already found who killed Roger. After the meeting they went back to Tanna Lodge Resort. He went to the resort with Lowa Lautu, Sam Namatak, Siko Nasse, Iaualka Selsel. Chief Iamtiu Wilson, Remy Kaly and many more went to Tanna Lodge Resort. They followed the story of Chief Charley Simil that if they wanted to know about the death of Roger, they must take Richard and Alice. So after the meeting, they went straight to Tanna Lodge Resort. At Tanna Lodge, they told Richard and Alice to come to the entrance road. He saw Richard and Alice went inside the truck with Siko. He and Iaualka got inside the truck. They went to Ianmarang. At Ianmarang he asked Alice about the story of Chief Charley Simil that if they wanted to know about the death of Roger, they took away Richard and Alice as they know something. He said Alice told him she did not know anything about the death of Roger. He did not talk to anybody else in the nakamal. Then he said Richard came outside. Richard and Alice did not know who killed Roger. But they mentioned two names (Jack and Katen) if they took them maybe they knew something about the dead.



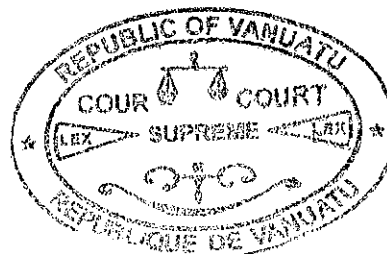
51. In his cross-examination, he said Roger's father is his brother. He admitted after the meeting with police, they were sad and unhappy as the police did not find who killed Roger. They went to Tanna Lodge Resort to take away Richard and Alice. He admitted there were lots of them. He denied they removed the employees of the resort to the entrance road. He saw the staffs were at the entrance road when he jumped in the truck as he was behind the group. He saw Lowa Lautu at the entrance of the resort. He saw chief lamtiu and many more. Chief lamtiu is his big chief in the area. He denied chief lamtiu told them to remove Richard and Alice. He admitted the truck which transported Richard and Alice was Chief lamtiu Wilson's truck. He said he only saw Richard and Alice when he jumped into the truck. It was put to him, he said if it was right or wrong he did not know, he followed the story of Chief Charley Simil.
52. DW5 is laualka Selsel. He is married. He has 6 children. He is 37 years old. He is from Yonanony village. On 10 August 2015, he attended a meeting at Lapantan.
53. It was a meeting of the chief. There were lots of people attending the meeting. He attended the meeting with Lowa Lautu George, Sam Namatak, Siko Nasse and Charley Numapen. The meeting was their meeting with the police. They talked about the death of Roger. The chiefs asked the police as to who killed Roger. The police told the chiefs that they have yet to talk to Ned. The chiefs asked the police if they can help the police to find who killed Roger. The meeting ended at 11.00am. They walked to go home; they remembered the story of Chief Charley Simil that Richard and Alice knew about the death of Roger. He and his brother in law Charley



Numapen were behind the group. They no longer went home; they went to Tanna Lodge Resort. He said when they arrived; he saw Richard and Alice were already in the truck. His small brother Siko Nasse called him and told him to get into the truck, they returned back to the village. He got into the truck and they went to Ianmarang. He said in the truck, there were Angelo (the driver), Alice, Richard and Siko, Charley Numapen and him.

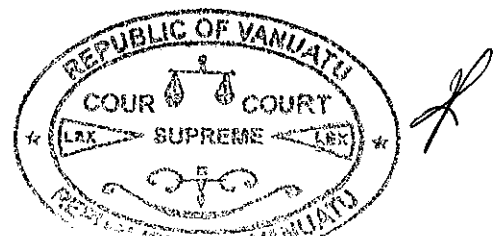
54. At Ianmarang, Siko talked to Richard and Alice in his church and then, they went to the nakamal. Siko and Richard went into a small house. He and Charley Numapen questioned Alice outside. He asked Alice if she knew anything about the death of Roger. Alice told him that she did not know. His small mother brought a gateau 8 to Alice to eat. He told Alice if she did not know that was the end of it. He did not talk to anyone else. He was asked that Richard said he talked to him at Ianmarang. He answered that after they questioned Alice and Siko questioned Richard and Richard and Alice said they did not know anything of the death of Roger, he said he just talked to Richard after they drunk kava.

55. In his cross-examination, Iaualka Selsel confirmed Roger was his uncle. He knew Charley Simil. He is a chief of a small nakamal at Isangel. He does not know the name. Chief Iamtiu is his big chief. He agreed Chief Iamtiu can command his walking around. He agreed Chief Charley Simil is not his chief. It was put to him he did not need to follow the story of Chief Charley Simil. He answered he will follow if the story affected what he heard. He said Roger's death happened on 18 July 2015. Chief Charley Simil told them of Richard and Alice the next day after they went to the nakamal (to mourn the death of Roger). It was put to him and he admitted that they did not



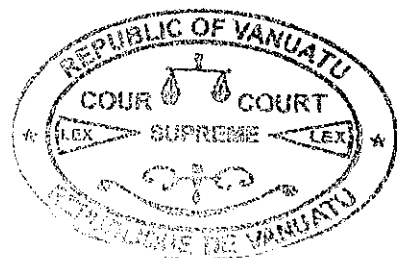
mention to the police about Richard and Alice at Lapantan meeting. They were not angry but they were not happy. He agreed when they walked on the road, they remembered the story of Chief Charley Simil, they went to Tanna Lodge Resort. He did not go inside. When he arrived the Tanna Lodge employees were already at the entrance of the resort. When he arrived at the small hill at Bethel village, he saw that the truck was already there at Tanna Lodge entrance. It was put to him and he agreed that Chief lamtiu Wilson sent them to Tanna Lodge Resort to get Richard and Alice based on the story of Charley Simil. When he arrived at the entrance at Tanna Lodge, Richard and Alice were already in the truck. In the truck, he saw the driver (Angelo), Siko, Numapen, Richard, Alice and he was at the cart of the truck. Alice was with the driver in front Richard was with Siko in the back seats. When he got into the truck, Angelo started the engine of the truck. Siko told him to jump in the truck. They drove to lanmarang. At lanmarang, he and Numapen questioned Alice outside the nakamal. It was put to him that before he questioned her, he threatened to kill Alice and Richard. He denied. It was put to him at that time he and Charley threatened Alice. He also denied that. It was put to him at that time they wanted to know who killed Roger. He agreed. It was put to him that because Alice did not answer him in the first place, he threatened to kill Alice and Richard. He denied.

56. DW6 is Angelo lamtiu. He was born in 1985. He is married. He has 3 children. He is from Ivankul village. He is a taxi driver. He drives his father's taxi – Toyota Hilus double cabin. He recalled on 10 August 2015, it was a Monday; he transported people in the early morning from the villages to Lenakel Market. On 10 August 2015, he picked up some of the



mothers and dropped them at Lenakel Markets. As he did not have any more trips to do, he waited until the afternoon to take them back to the village. He said he took them back to the village after the market stopped; he took the mothers on the same road leading to the south which passed through Tanna Lodge Resort entrance road. When the truck arrived at Bethel village, he saw plenty of the people at the main entrance of Tanna Lodge Resort. When he drove he heard someone shouted at him saying stop. He did not know who stopped the truck. He knew Richard and Alice when they were inside the truck. Siko came in the truck, he said there were others coming in the truck he did not know them. Alice sat in front with him. Richard sat with Siko in the back seats. He drove the truck to lanmarang some mothers will go there. Richard and Alice too will be dropped there. After he arrived at lanmarang, he returned for another trip at lanakul. It was about 2.45PM. They called him to come and take Richard and Alice back to the Resort. He took them down to Ivankula, Richard got out there. He took Alice back to the Resort.

57. In cross-examination, he said he drove the mothers to the market early. He started at 6.00am. They finished the market at 2.00PM. He picked them after the market with the goods they bought in the shop. He recalled of two mothers he knew. The others he did not know them. He was asked and he said Roger was one of their sons. He said he did not know that there was a meeting at Lapantan. It was a Monday. He started his service early in the morning. At 2.00PM, he saw plenty men at the entrance of the resort. He ran to the entrance and Richard and Alice jumped into his truck. It was put to him that none of the witnesses mentioned the presence of mothers in the truck. He said he did not agree because he did pick up some

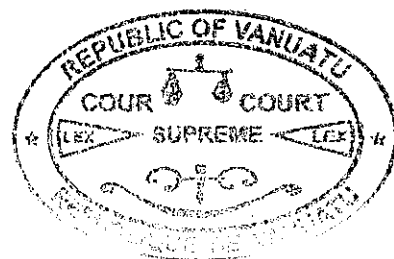


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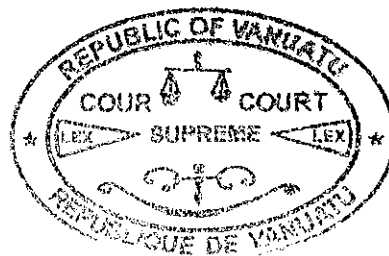
mothers at the market. It was put to him he was lying that he picked up some mothers at the market. He answered no. It was put to him and he agreed that he heard Iaualka Selsel said it was his father (Iamtiu Wilson) who told them to take Richard and Alice to Ianmarang. He said he heard that. It was put to him that the truck which transported Richard and Alice was the truck of Chief Iamtiu Wilson, so he must have known about the plan. He said he did not know.

58. DW7 is Jimmy Iarmasa. He did not know his age. He is married. He has 6 children. He has 28 grandchildren. He is from Yonameng village. He said on 10 August 2015, he was at his house. He was gardening. He said he did not go anywhere. He was at his house until the afternoon. He was told that Richard testified that he made a threatening statement to him. He answered he did not know. He did not talk to Richard. He was asked of the statement Richard said he made against him at Ivankula nakamal: "you ia sipos yu toktok nogud naoia, you ia mi save killim ded you olsem one something nating nomo. Mi no fraet too lo police." He said he did not know. He did not make the statement. He was not at Ianmarang.

59. In cross-examination, he was reminded of his oath. He also asked if he is a chief. He said he is not a chief. His chief was in the Court room. He said his chief is his small brother. It was put to him that evidence pointed to the fact that he was also walking on the road with others. He said he did not know. He was not with them. It was put to him and he agreed that he was involved in court before and he was released from custody in 2014. He said he did not know of the statement Richard said he made against him. He was asked if he told truth or lies. He said he did not know. He did not know of the death of Roger when he was asked.



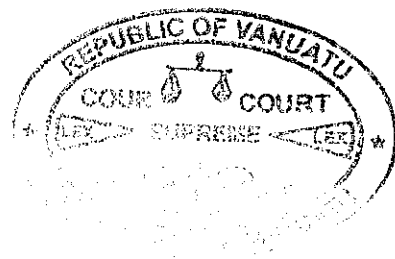
60. DW8 is Remy Kaly. He is about or more than 40 years of age. He is married. He has 7 children. He is from Iavenkula village. He has no job presently. On 10 August 2015, he and others attended a meeting at Lapantan Nakamal. They were mourning from a death. They attended a meeting; there were people from different villages attending the meeting. He said the chiefs called the meeting at Lapantan. The Chiefs set the date of the meeting. There were chiefs from Isla, Lowinio, Tanasul, Iakwe and another village. The purpose of the meeting between chiefs, the police and them was that they (the family of the deceased) wanted the police to brief the family of the progress investigation report. He said the police told them that, the investigation is still progressing, the suspect Net did not talk to them yet. The police asked the chief to help find the cause of the death of Roger. Police said the chiefs will work together with the police. The meeting lasted for 1 hour. The meeting ended at 1.00PM.
61. In cross-examination, Remy Kaly said now he does not work. He agrees that he was the former President of Tafea Province. It was put to him he knows very well about the work of the police. He said they worked together with the police. It was put to him whether it was normal work for him with the police to create problem with other men. He answered no. It was put to him and he denied that he took people to Tanna Lodge Resort premises. It was put to him that when the police asked him to help, was it correct for them to take away Richard and Alice. He answered they thought it was right for them to do to assist the police. It was put to him whether the actions or conduct of involving 100 men to Tanna Lodge Resort, moving the resort's staff to the entrance gate and taking away 2 staffs of the Resort



were the right thing to do. He admitted that they are not the right thing to do.

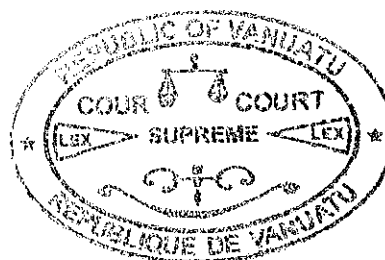
V. DISCUSSION ON EVIDENCE : FINDINGS AND CREDIBILITY

62. I saw and heard all 16 witnesses in this case from Monday 25th April to Thursday 28th April 2016 at Isangel, Tanna. I have read and considered the final submissions of the Prosecution and these of the Defence on the evidence and the law to be applied both Counsel made to the Court on Thursday 28th April 2016. I find they are very helpful and I thank both Counsels for their assistance.
63. I saw and heard following 8 Prosecution witnesses and considered their demeanour in the witness box :- Richard Iaruel; Alice Willie; Collin Iaruel; Tain Nalau; Jeffery Iaruel Tupas; William Yelliah; Police Officer Timothy Arlie and Police Officer Julien Ben.
64. I have assessed the evidence of each and all 8 prosecution witnesses. I find that their respective evidence in chief was maintained and confirmed while they were each and all cross-examined by the defence. I find Richard Iaruel, Alice Willie, Collin Iaruel, Tain Nalau, Jeffery Iaruel Tupas, William Yelliah, and Police Constable Ben, honest, credible and reliable witnesses.
65. I also saw and heard following 8 Defence witnesses :- Lowa Lautu George; Sam Namatak; Siko Nasse; Charley Nemapen; Iaualka Selse; Angelo Iamtiu; Jimmy Iarmasa and Remy Kaly.
66. I have assessed the evidence of each all 8 defence witnesses. I find the following in respect to each of them:



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- * Lowa Lauta George – He did not answer to so many questions. He is not a trustworthy and reliable witness.
- * Sam Namatak – Most part of his evidence could not be accepted as he was trying to minimize his actions and the involvements of others in the incident on 10 August 2015.
- * Siko Nasse is not a trustworthy and reliable witness. I do not believe his versions of facts that he was just standing at the head of the Christmas tree at the entrance of Tanna Lodge Resort on 10 August 2015 and just jumped into the truck as he testified.
- * Charley Nemapen – most critical part of his evidence could not be believed as he is not credible.
- * Iaualka Selsel – Most part of his evidence is credible. Other aspects of his evidence could not be believed.
- * Angelo Iamtiu – Gave an account of facts to fit his situation. I do not believe his evidence that he transported the mothers and went to the entrance of Tanna Lodge Resort when 100 unhappy and angry men assembled, forced the employees of the resort to assemble at the entrance and removed two (2) employees. Prosecution witnesses and defence witnesses who were questioned of who were in truck did not mention of any mothers or women in the truck apart from Alice Willie at the very point in time as alleged. It is a fact that Chief Iamtiu Wilson directed the accused and others to take Richard Iaruel and Alice Willie. The truck used to remove Richard and Alice was Chief Iamtiu Wilson's truck. Angelo Iamtiu drove the truck. It is



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rational to infer that he must have known of the order of his father to remove Richard and Alice. I reject other aspect of his evidence.

- * Jimmy Iarmasa gave evidence that he was not at the meeting at Lapantan Nakamal and he was not with them at Tanna Lodge Resort with others. Prosecution witnesses confirmed that. He was not at Ianmarang on 10 August 2015. Richard Iaruel confirmed that when he said Jimmy Iarmasa made threatening statement to him at Ivankula Nakamal.
- * Remy Kali is a reliable witness. I accept his evidence that they worked with the police. But I reject his evidence that they did not know that the removal of Richard Iaruel and Alice Willie on 10 August 2015 was wrong. This fact is supported by Remy Kali's admission that their actions or conducts of involving 100 men to Tanna Lodge Resort, moving the resort's employees to the entrance gate and removing 2 members of the Resort on 10 August 2015 were not the right thing to do.

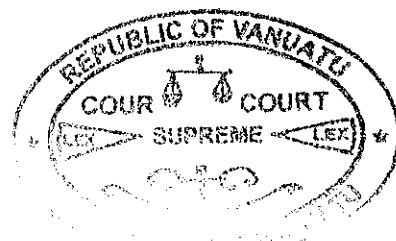
VI. LAW AND ITS APPLICATION

67. I consider the facts as found by the Court. I apply the law to these facts. I consider offences charged in the indictment/information in turn.

Unlawful Assembly (count 1)

68. Section 68(2) of the Penal Code defines unlawful assembly as:

"where three or more persons assemble with intent to commit an offence, or being assembled with intent to carry out some common purpose, nearby persons reasonably to fear that the persons so assembled will commit a



breach of the peace, or will by such assembly needlessly and without any reasonable occasion provoke other persons to commit a breach of the peace, they are an unlawful assembly."

69. Has the prosecution proved each and all the essential elements of the offence of Unlawful Assembly beyond reasonable doubt on the basis of evidence as found and accepted by the Court?

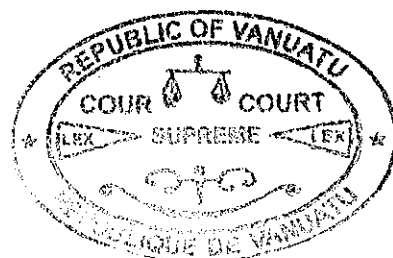
1. Presence of three or more persons (the first element of this offence).

70. The evidence from all prosecution witnesses point to the fact that there was a group of people, between 30-100 people present at Tanna Lodge Resort entrance on the 10th of August 2015.

71. I accept the prosecution submissions that the evidence of the prosecution points to the fact that several of those defendants were present. Richard Iaruel points out the Defendant Siko Nasse who came directly at him and told him that Chief Iamtiu Wilson wants everybody to go to the main road. At the main entrance road, he saw Accused Lowa Lautu George, Siko Nasse, Sam Namatak and Angelo Iamtiu. Richard said there were many people, some holding knives, stones and axes. He was frightened at that time.

72. Evidence from Alice Willie points out that she saw Accused Lowa Lautu George, Sam Namatak, Siko Nasse, Charley Nemapen, Iaualka Selsel. There were several other persons also present.

73. The other prosecution witnesses also put the following afore mentioned defendants at Tanna Lodge Resort and they have indicated that the others were also present. These witnesses include Tain Nalau, Collin Iaruel, and Jeffery Iaruel Tupas.



74. The defence concedes that this element is made out beyond reasonable doubt that an assembly of the defendants on the 10th August 2015 and they all went to Tanna Lodge Resort entrance after the meeting at Lapantan Nakamal. This element is made out on the Criminal standard beyond reasonable doubt.

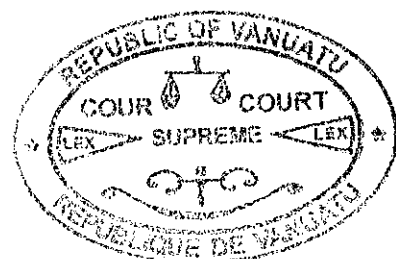
2. Conduct themselves in such a manner as to cause nearby persons reasonably to fear the persons so assembled cause a breach of the peace (the second element of this offence).

75. I accept the prosecution evidence which is overwhelming in support of this element of the offence.

76. Evidence from – Richard Iaruel, Alice Willie, Collin Iaruel and Tain Nalau points out that the actions of the Defendants and other members of the group at that time caused them to be afraid of the defendants. Richard said he was frightened and thought they were going to kill him. They had stones and knives. Collin Iaruel evidence pointed to the fact that although, the Defendants did not held weapons, they shouted at them and talked loudly and so seriously to them, she was very very frightened.

77. Alice Willie said she was frightened because she had never seen or experience such actions by a group of people. Mr Tain Nalau said he was frightened by the Defendant Siko Nasse who was forcing them to move to the road. Mr William Yelliah said when the Defendant Lowa Lautu George stopped the truck; he did not come outside because if anything happened he could just take off with the truck.

78. It is accepted as a fact that two of the defendants (Sam Namatak and Niko Nasse) had gone into the premises of Tanna Lodge Resort. The court



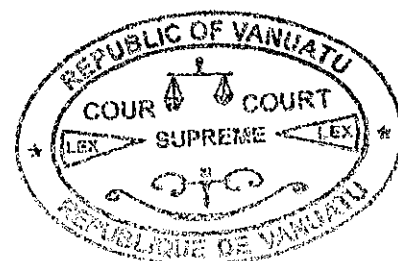
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rejects the evidence of Siko Nasse that he did not go inside the premises of Tanna Lodge Resort on 10 August 2015. It is accepted as a fact that the tone of voices used by the Defendants when calling out to the staffs/employees of the Tanna Lodge Resort to the entrance of the resort was loud and serious. It is also accepted as a fact that some other persons who were also with the Defendants at the entrance of the resort were holding weapons but none of the accused held any weapons. The evidence of Accused Sam Namatak that he did not shout is rejected when considering and assessing other aspects of his evidence.

79. The defence submitted that the fact that all staffs of Tanna Lodge Resort including Richard Iaruel and Alice Willie came out to the entrance of the resort does not necessarily mean that the staffs of the Resort including Richard and Alice were caused reasonable fear that the defendants and others who assembled will commit a breach of the peace or will provoke other persons to commit a breach of the peace. This submission is rejected as it is against the overwhelming evidence provided by the Prosecution through prosecution witnesses who testified that they were frightened of actions and conducts of the Defendants and others. On the evidence, the prosecution has proved this element on the criminal standard of beyond reasonable doubt.

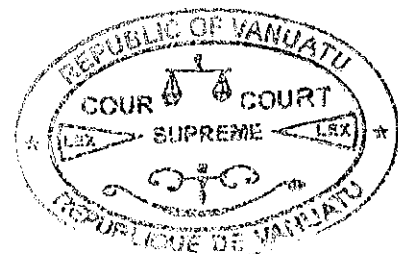
3. **With intent to commit an offence or with intent to carry out some common purpose (the third element of this offence).**

80. The evidence of Richard Iaruel, Alice Willie was that they were forced into the vehicle. Collin Iaruel and Tain Nalau gave evidence to the same effect.



Both Richard Iaruel and Alice Willie were then taken from Tanna Lodge Resort entrance to Ianmarange Village/Nakamal without their consent.

81. The Defence concedes that there was an assembly of the Defendants on the 10th August 2015 and that they all went to Tanna Lodge after the meeting. Defendant Lowa Lautu George confirmed while cross-examined that after the meeting they walked to Tanna Lodge Resort to remove Richard Iaruel and Alice Willie.
82. Other Defendants, Sam Namatak, Charley Numapen, Iaualka Selsel confirmed that they agreed that they were angry, disappointed, sorry about the death of Roger and that no one had admitted to the killing of Roger. They remembered about Richard Iaruel and Alice Willie that is why they went to Tanna Lodge Resort to remove both Richard Iaruel and Alice Willie.
83. The defence witness, Remi Kali, admitted in cross-examination that the actions or conducts of the defendants involving 100 men to Tanna Lodge Resort, causing the staffs of the resort to move to the entrance of the resort, causing the staffs of the resort to be afraid and taking away 2 staffs of the Resort were not the right thing to do. It is a fact that Remi Kali was with the Defendants and others at the entrance of the resort on 10 August 2015. On the evidence, the prosecution has also proved this element of the offence of unlawful assembly beyond reasonable doubt.
84. The defence submitted that when the defendants moved Richard Iaruel and Alice Willie from Tanna Lodge Resort to Ianmarang village/nakamal they thought that they were assisting the police to find out about the death of late Roger. They, therefore, it submitted, did not have certain facts to form the criminal intent. The court rejects these submissions on the basis of the

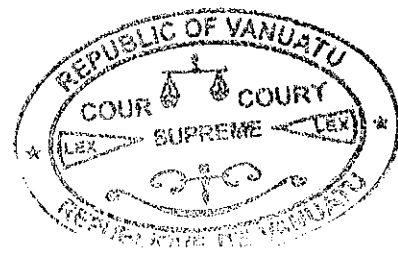


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evidence which is overwhelming against the Defendants on this element of the offence.

85. On 10 August 2015, the defendants attended a meeting at Lapantan Nakamal (Evidence of Jeffery Iaruel Tupas and Evidence of all 7 Defence witnesses (save Jimmy Iarmasa). The meeting was organised by the chiefs of some villages and the chiefs set the date of the meeting. The purpose of the meeting is for the chiefs to ask the police of the progress investigation report about the death of Roger Namatak (Evidence of Remy Kaly). After the death of Roger on 18 July 2015, the Family of Roger including the defendants went to Ivankula nakamal to mourn the death of Roger. They discussed the death of Roger at that Nakamal. The big chief of nakamal is Iamtiu Wilson (evidence of Richard Iaruel and Iaualka Selsel. The next day after the death of Roger, when they discussed the death and what caused the death, Chief Charley Simil told Chief Iamtiu Wilson at Ivankula Nakamal that if the police told them that the police did not find who killed Roger and that if they wanted to find out who killed Roger, they could take Richard Iaruel and Alice Willie as they knew something about the death of Roger (evidence of Iaualka Selsel). Chief Iamtiu Wilson ordered his men including the defendants to take Richard Iaruel and Alice Wille (evidence of Richard Iaruel and evidence of Iaualka Selsel).

86. On 10 August 2015, when the police informed the chiefs and the family of Roger that the police did not yet find the likely cause of the death of Roger, the defendants as members of the family of Roger were not happy, unsatisfied and sorry, they went directly to Tanna Lodge Resort where Richard Iaruel and Alice Willie were working. It has become a common purpose for each and all the Defendants to take Richard Iaruel and Alice

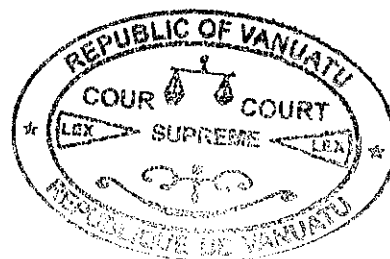


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Willie as ordered by their big chief lamtiu Wilson. It is also a fact that when Defendants Sam Namatak and Siko Nasse went inside the area of Tanna Lodge Resort and told Richard Iaruel, Alice Willie and other employees of the resort to go to the entrance road and Siko Nasse also told them to see Chief lamtiu Wilson who was at the entrance road. Chief lamtiu Wilson was also at the entrance road as the evidence showed on 10 August 2016. When the defendants carried out that common purpose on 10 August 2015 after Lapantan meeting, they conducted themselves in such a manner as to cause nearby persons reasonably to fear that the defendants will commit a breach of the peace. Richard Iaruel, Alice Willie, Collin Iaruel, Tain Nalau, Jeffery Iaruel Tupas, William Yielah and Police constable Timothy Arlie testified about the conducts of the Defendants and others and that they were afraid of them.

87. I am satisfied that the prosecution has proved all the essential elements of the unlawful assembly against the following defendants: Lowa Lautu George, Sam Namatak, Siko Nasse, Charley Numapen, Iaualka Selsel and Angelo lamtiu.
88. The prosecution fails to prove the offence of unlawful assembly against Accused Jimmy Iarmasa. The evidence does not establish that he was involved in an assembly at that time and place. His identification in the assembly is open to doubt. In those circumstances, the convictions will be entered against the other six above named Accused. The conviction against accused Jimmy Iarmasa cannot stand.

Offence of Kidnapping (Count 2)



89. Has the prosecution proved beyond reasonable each and all essential elements of the offence of Kidnapping, contrary to section 105 (b) of Penal Code?

Section 105(b) provides:

"105. Kidnapping

(a)...

(b) by force compel, or... any person to go from any place to another place."

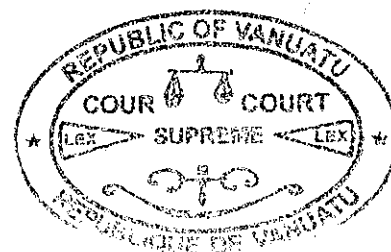
1. Removal of Richard Iaruel and Alice Willie from any place to another is the first element.

90. The evidence was from Richard Iaruel and Alice Willie that they were taken from Tanna Lodge entrance to Inmarang village/nakamal. Defendant Angelo drove the truck. Siko Nasse sat with Richard at the back. Charley Numapen, Iaualka Selsel and Sam Namatak also went in the truck accompanying the Kidnapping of both Richard Iaruel and Alice Willie.

91. The evidence from Collin Iaruel, Tain Nalau and Police Constable Timothy Arlie was that they saw both Richard Iaruel and Alice Willie were taken away from Tanna Lodge entrance in a truck white Toyota double cabin driven by Angelo Iamtiu.

2. By force compelled Richard Iaruel and Alice Willie is the second element.

92. The evidence is from Richard Iaruel and Alice Willie. Richard gave evidence that Mr Lowa Lauta George called him he did not want to go but was afraid that if he did not he felt he would be killed or assaulted. He was still standing when Siko came up next to him when he was being called that was when he walked into the truck. Alice Willie gave evidence that she was frightened and when she was called she walked straight to the truck.



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93. It is not necessary for the prosecution to prove actual physical force was applied to the victims. It is sufficient that there be a threat of the application of force (see *PP –v- Walter Kota and others (1993) 2 Van LR.661; and Kilman –v- PP (1997) VUCA9 – Cr. Appeal Case O2 of 1997*).

3. Without the consent of Richard Iaruel and Alice Willie

94. Both Richard Iaruel and Alice Willie gave evidence that they were frightened of the Defendants and other members of the Group. They just followed instructions from Lowa Lauta George because they felt they would be killed or assaulted.

4. Without Lawful excuse

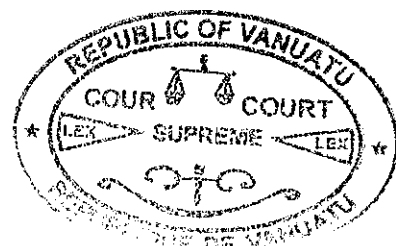
95. Evidence from Both Richard Iaruel and Alice Willie that there was no lawful authority given to the defendants to remove them from Tanna Lodge Resort to Ianmarang village.

96. Under cross-examination, the Defendants said they did not know whether what they did was right or wrong but it was Chief Iamtiu order based on the information he received from Chief Charley Simil.

97. Lowa Lauta George agreed under cross-examination that he used force to get both Richard Iaruel and Alice Willie into the truck.

Remy Kaly: who testified for the defence under cross-examination agrees that what the defendants did was not right to remove Richard Iaruel and Alice Willie as they did on 10 August 2015.

98. The prosecution evidence (Richard Iaruel and Alice Willie) which was confirmed by the defence evidence (Iaualka Selsel) points to Chief Iamtiu



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Wilson who gave orders for the Defendants and others to take Richard Iaruel and Alice Willie. It is against the law for Chief Iamtiu Wilson to make such an order. Chief Iamtiu Wilson should also be prosecuted as an accused in this case.

99. The prosecution proved each and all the essential elements of kidnapping against following defendants beyond reasonable doubt: Lova Lauta George, Sam Namatak, Siko Nasse, Charley Numapen, Angelo Iamtiu and Iaualka Selsel.
100. The prosecution fails to prove the offence of kidnapping against Accused Jimmy Iaramasa. The 6 above named Defendants shall be convicted for the offence of Kidnapping and defendant Jimmy Iaramasa shall be acquitted on this offence.

Offence of threats to kill Richard against Defendant Jimmy Iaramasa (Count 3).

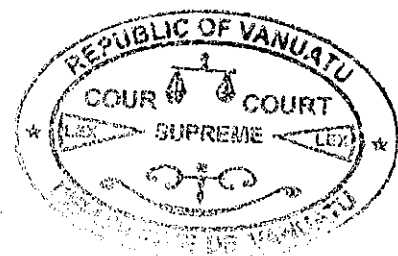
101. Has the prosecution proved each and all the essential elements of the offence of threats to kill a person, contrary to section 115 of Penal Code charged in Count 3?

Section 115 of Penal Code provides:

"115. Threats to kill a person

No person shall, knowing the contents thereof, directly or indirectly or written threats to kill any person."

102. Accused Jimmy Iaramasa was charged with threats to kill Richard Iaruel at Iammarang Nakamal in count 3 of the Indictment. Richard gave evidence Jimmy Iaramasa did threaten to kill him at Ivankula nakamal but not at Iammarang nakamal as alleged in count 3. At the end of the prosecution case, the prosecution did not seek to amend the charge to accord with the



evidence. The prosecution sought to do so at the final closing submissions. Accused Jimmy Iaramasa denied making any threats to kill Richard at Ianmarang on 10 August 2015 as alleged in the charge in Count 3. He denied making any threats to kill Richard Iaruel at Ivankula Nakamal on 10 August 2015.

103. In the circumstance it will not be proper to consider any amendment now. I have refused the prosecution's application to that effect. I am satisfied the conviction cannot stand. (See section 139 of the Criminal Procedure Code Act [Cap.136] and Kilman -v- Public Prosecutor (1997) VUCA 9; Cr. Appeal case 02 of 1997 (21 OC. 1997) at page 10 parag.3).

Offence of threats to kill Alice Willie and Richard Iaruel against Defendants Charley Numapen and Iaualka Selsel (in count4).

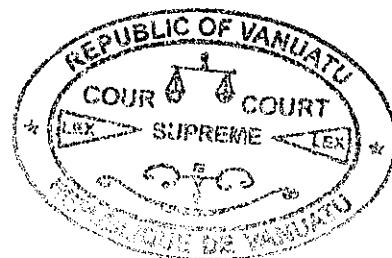
104. Has the prosecution proved each and all the essential elements of the offence of threats to kill Alice Willie and Richard Iaruel as charged in Count 4 of the Information?

Section 115 of Penal Code Act has been cited earlier. Count 4 as contained in the information (Indictment) dated 18 February 2016, reads:

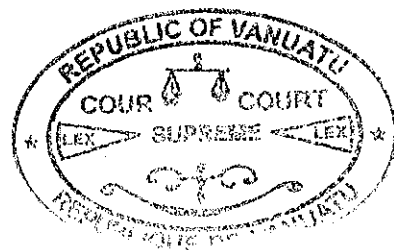
*Count 4. STATEMENT OF OFFENCE
Threats to kill – contrary to section 115 of the Penal Code Act [Cap 135]*

PARTICULARS OF OFFENCE

Charley Numapen mo Iaualka Selsel, samtaem long namba 10th August 2015 long Ianmarang village, youtufala ibin makem sam oral threats blong kilim ded tufala ia Alice Willie mo Richard Iaruel olsem yutufala istap talem ol toktok ia long Alice se "mifala i kam down blong kilim ded you stanap Mo Net i kilim ded Roger so youtufala too mifala i mas kilim ded yutufala."



105. There is no evidence led by the prosecution on the required criminal standard of beyond reasonable doubt in respect to the elements of this offence.
106. The evidence from Alice is that at Ianmarang, they told her that they will ask her some questions and they wanted her to answer those questions. If she answered correctly she will go back. If she answered wrongly she saw the hips of men who came to Tanna Lodge Resort, they came because of her and her uncle Richard. She also said that if she said she was part of the group which was involved in the death of Roger, they will remove her clothes; they will fasten her hands and her legs to a tree until she was brought to court.
107. Further the particulars of the offence in Count 4 seemed to be an account of what was earlier in the mind of the Defendants when they were at Tanna Lodge Resort. The allegations of oral statement to Alice Willie at Ianmarang village appeared to be a recital of that earlier means rea. The circumstance under which the alleged statement (of earlier means rea) was made to Alice Willie, illustrates the absence of actus reus (material element of the offence).
108. There were defects in Count 4 of the information. The Prosecution attempted to amend this charge substantively at the final closing submissions which illustrated the difficulties face by the prosecution. I refused the application as the effect of such amendment will be substantial and will be outside the requirements of section 139 of the Criminal Procedure Code Act [Cap 136].



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109. The conviction against the two Defendants (Charley Nemapen and laualka Selsel) cannot stand they must be acquitted of this offence.

VII. VERDICTS

110. The verdicts of the Court are as follow:

Count 1: Unlawful Assembly, contrary to s.69 Penal Code Act

-Lowa Lauta George – Guilty

-Sam Namatak – Guilty

-Siko Nasse – Guilty

-Charley Numapen – Guilty

-laualka Selsel – Guilty

-Angelo Iamtiu – Guilty

-Jimmy Iaramasa – Not Guilty

Count 2: Kidnapping, contrary to s.105 Penal Code Act

-Lowa Lauta George – Guilty

-Sam Namatak – Guilty

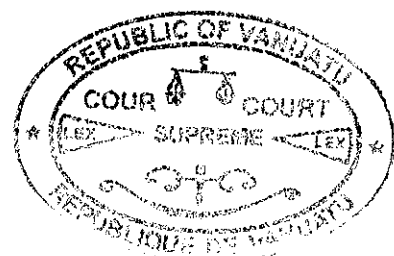
-Siko Nasse – Guilty

-Charley Numapen – Guilty

-laualka Selsel – Guilty

-Angelo Iamtiu – Guilty

-Jimmy Iaramasa – Not Guilty



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Count 3: Threats to Kill a person, contrary to s.115 Penal Code Act

-Jimmy Iaramasa – Not Guilty

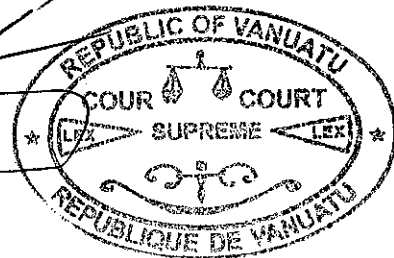
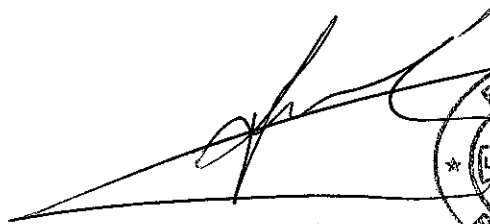
Count 4: Threats to kill a person, contrary to s.115 Penal Code Act

-Charley Numapen- Not Guilty

-Iaualka Sessel – Not Guilty

DATED at Isangel, Tanna this 29th day of April, 2016

BY THE COURT



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Vincent Lunabek
Chief Justice