

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

Criminal
Case No. 20/567 SC/CRML

BETWEEN: Public Prosecutor

AND: Meriam Sam
Defendant

Coram: Justice Aru

Counsel: Mr. P. Toaliu for the Public Prosecutor
Mrs. P. Malites for the Defendant

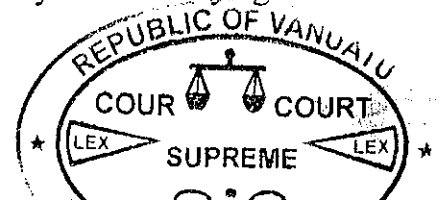
SENTENCE

Introduction

1. Ms. Meriam Sam you are in Court today to receive your sentence. You were charged with one count of intentional assault causing damage of a permanent nature. The maximum penalty for this type of offending is 10 years imprisonment. You pleaded guilty to the charge therefore I convict you accordingly.

Facts

2. The facts as set in the prosecution brief of facts are not disputed. In summary the complainant who is your partner is a seasonal worker on the RSE scheme. On 27 November 2019 he signed a contract at the Nambawan Café in Port Vila to renew his employment. In celebration of his achievement on 28 November 2019 he drank a bottle of Golden Eagle liquor then went to bed.
3. On Friday 29 November 2019 you were on Tanna. Someone told you what the complainant did. You called him and scolded him and told him to return to Tanna. He then bought his plane ticket to fly the very next day. He had to cancel the ticket later as you told him you were coming to Vila on the Vanuatu ferry. Around 4.00 am on 3 December 2019 the complainant was asleep when he was awoken by someone trying



to open the door. He went to the door and saw you using your mobile flash light to try and open the door.

4. He saw you holding a small knife when you approached him and tried stabbing him. He was cut behind the neck and on the left side of his ribs. The complainant was able to evade you and ran outside. You went after him saying words to the effect that "*Bae mi karemout kat blo u iet ia*" (*I will remove your intestines*).
5. The complainant's brother heard you and removed the knife. The complainant was taken to the hospital and his wounds were stitched. On 3 December 2019 at 9.30 am Dr Stewart Tari examined the complainant and observed that he had lateral chest laceration, minor cut on the neck posterior and minor bruises on the chest.
6. A second medical examination was done on 11 December 2019 revealing that the complainant had a wound on the left side of the chest that had been stitched and was removed.
7. Under caution after your arrest you told the Police that you did not plan on hurting the complainant but you were angry and lost control and as the knife was in your hands you used it on the complainant. You admitted stabbing the complainant with the knife.

Aggravating Factors

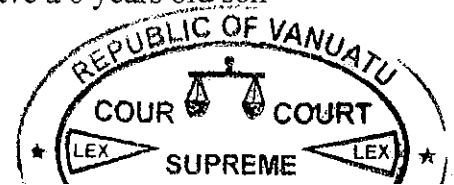
8. There are a numbers of aggravating factors, first was the use of a weapon, A knife. There is also some element of planning. The offending occurred in the early hours of the morning when the complainant was still asleep. The defendant was on Tanna but informed the complainant she was coming to Vila. She arrived in Vila in the very early hours of the morning and went straight to Teuma.

Starting point

9. In assessing the correct starting point I note that a knife was used. However the offending is not at the high end of this type of offending as shown by the injury sustained and the impact on the victim. I adopt a starting point of 3 years imprisonment.

Personal Factors

10. Your Pre-sentence Report states that you are 29 years of age and you are from white Sands Area on Tanna. You are the eldest in your family and you have a 6 years old son



who is currently living with your parents. You were in a good relationship with the complainant until he started work as a seasonal worker. You have now left the complainant and living on your own. You left school at year 12 at Sorovanga Secondary School due to financial difficulties. Chief Kami on your behalf told your probation officer that you are hardworking and you are looking after your son on your own.

11. No custom reconciliation has been undertaken but you say that you are remorseful for what you did. You told your probation officer that you lost control of yourself when you asked for your passport which was with the complainant in the house and he tore it up in front of you. Prior to your release on bail you were remanded for a period of 17 days.
12. For the time spent in custody and a crime free past your sentence will be reduced by 12 months.

Guilty Plea

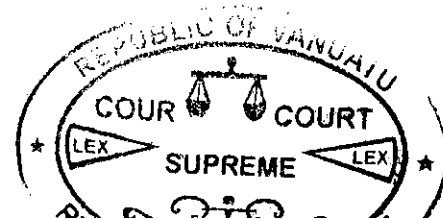
13. In relation to the guilty plea, the prosecution relying on **PP v Samuel** [2019] VUCA 76 submitted that given the strength of the prosecution case only a 22% discount is warranted. The strength of the prosecution case is only one of many factors that a Court needs to consider before allowing a lesser discount were a guilty plea is entered. The factual circumstances in *Samuel*, the nature of the offending and the personal circumstances of the offender are far more serious than this case. Ms Sam is a first time offender.
14. You admitted the offending to the police upon your arrest and entered a guilty plea on your first plea day. For your guilty plea, you are entitled to the full one third discount.

End Sentence

15. Your end sentence is therefore 1 year and 3 months imprisonment.

Suspension

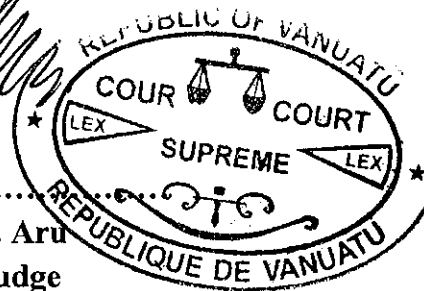
16. Defence counsel submits that the end sentence be suspended. Considering the requirements of s57 of the Penal Code [Cap 135], I accept that the circumstances of this case warrant a non-custodial sentence. The end sentence is therefore suspended for a period 2 years. Should you reoffend during this period you will be remanded in custody to serve your sentence.



17. You have 14 days to appeal if you are not happy with the sentence.

DATED at Port Vila this 12th day of June, 2020

BY THE COURT



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D. Aru
Judge