

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

Criminal  
Case No. 20/2632 SC/CRML

**BETWEEN:** Public Prosecutor

**AND:** Morris William Mahit  
Defendant

*Date:* 27 October 2020  
*By:* Justice G.A. Andrée Wiltens  
*Counsel:* Ms M. Tasso for the Public Prosecutor  
Ms K. Karu for the Defendant

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**SENTENCE**

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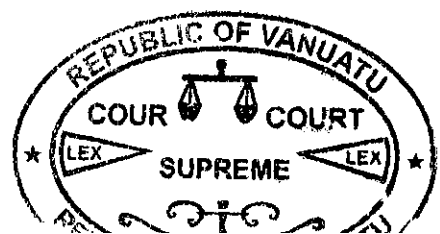
A. Introduction

1. Mr Mahit pleaded guilty to:

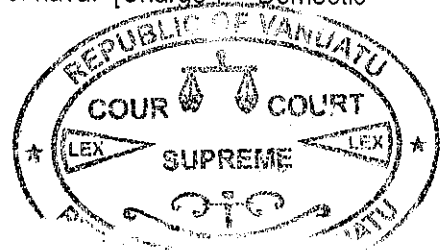
- Act of indecency (x2);
- Abduction;
- Sexual intercourse without consent;
- Domestic violence (x2); and
- Threat to kill.

B. Facts

2. Mr Mahit (now 47 years old) married his wife Vailima (now 45 years old) in 2009. They have 3 children together, the eldest of whom is Madlen, now aged 21.



3. Since 2013 Vailima has intermittently travelled to NZ to pick fruit under the RSE Scheme. While she was away from home, Mr Mahit looked after their children. While under his care and control, Matlen was offended against by her father. There was also offending against Vailima when she was in Port Vila or in Paama, after having returned for a period from NZ.
4. The first offending occurred in 2016, when Vailima was away from home in Paama receiving RSE training. Mr Mahit took Matlen, then aged 17 years, to a beach where he exposed his penis to her, masturbated in front of her and showed her a pornographic video. She did not view the video voluntarily – he forced her to view it by means of threats and to tell him what she observed happening in the video. [Charge 1 – Indecent act]
5. The second indecent act occurred in 2016 when Vailima was away in NZ. One night Mr Mahit entered Matlen's room, undressed her using force, and then undressed himself. He then exposed his penis to her and touched her breasts. He masturbated himself to the point of ejaculation. Matlen called her mother the next day in NZ to report the incident. She then ran away from home and did not complete her year 9 schooling. [Charge 2 – Indecent act]
6. On 29 June 2019, Vailima returned from NZ. Prior to that day Mr Mahit had told her that he would take her to a friend of his, so that the friend "could fuck her". Vailima made it clear she did not care for that idea. However, Mr Mahit waited at the airport for Vailima to arrive. They caught a bus to Blandiniere where they dropped off her luggage. The bus then carried on and took them to the Kalfabun Guesthouse at Tebakor. On arrival, Mr Mahit took Vailima to a room where a male was already waiting. Mr Mahit instructed Vailima to go and sit next to the man and warned her that refusal would result in an assault.
7. Mr Mahit then went out and purchased kava and beer, which they consumed on his return. Mr Mahit then told the man and Vailima to go into the bedroom. Mr Mahit told the man: "*she is my in-law, you fuck her*". Both the male and Vailima undressed, but Vailima did so only because she was terrified, and because she knew that refusal would lead to her being assaulted. The man had full penetrative sexual intercourse with Vailima while Mr Mahit watched. When the man had finished, he left. [Charge 3 - Abduction]
8. Mr Mahit and Vailima spent the night at the Guest house. Later the same evening Mr Mahit also had full penetrative sexual intercourse with Vailima. She did not consent to that. [Charge 4 – Sexual intercourse without consent]
9. On 22 October 2019, Vailima attended a wedding on Paama Island with her children. Mr Mahit was there too and had consumed an excessive amount of alcohol and was drunk. Vailima attempted to avoid Mr Mahit in his drunken state and went to stay at her brother-in-law's house. Mr Mahit noticed her absence and went to locate her. When he found Vailima in his brother's house he assaulted her using his fists before kicking her all over her body until she involuntarily urinated on herself. [Charge 6 – Domestic violence]
10. The next morning, Mr Mahit again assaulted Vailima. On this occasion he used a piece of timber to hit her, which Matlen observed and shouted at him to stop. Mr Mahit then swung the piece of timber at Matlen, but it missed her fortunately. Mr Mahit then instructed Vailima to go into the house, and he followed her continuing to assault her. Subsequently, Mr Mahit apologized and gave Vailima VT 5,000 cash and a plastic bottle of kava. [Charge 7 – Domestic violence]



11. In November 2019, Vailima again went to NZ for fruit picking. He instructed that she call him daily while in NZ. During those calls he would masturbate himself to the point of ejaculation. If Vailima missed calling him on any day Mr Mahit would become angry and call her names. On one occasion he said to her:

"I will cut your neck and put it on top of your breast. You don't know me. I'm a hard person. Don't make me go back to this hard life. If you report me to the police I will give you red alert, like during the cyclone season where there is yellow, blue and red alert. Your life is in my hands". [Charge 9 – Threat to kill]

12. Vailima wanted to report Mr Mahit to the local Chief or to the police, but she had been threatened not to and was afraid for her safety. Hence the offending did not come to the attention of the authorities for some time.

13. There are several witnesses who have heard Mr Mahit swearing at and threatening Vailima. There are also a number of text messages, recovered by the police, which show Mr Mahit's threatening behaviour towards Vailima.

14. When interviewed by the police, Mr Mahit chose to remain silent.

#### C. Sentence Start Point

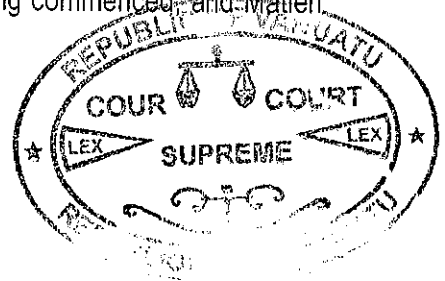
15. The sentence start point is to be assessed by looking at the maximum sentences available for the offending and then factoring in the aggravating and mitigating aspects of the offending.

16. The respective maximum sentences are as follows:

- Act of indecency – 7 years imprisonment;
- Abduction – 12 years imprisonment;
- Sexual intercourse without consent – life imprisonment;
- Domestic violence – 5 years imprisonment; and
- Threat to kill – 15 years imprisonment.

17. There are several aggravating aspects to this offending:

- The fact that there are two complainants;
- The repeat nature of the offending (7 offences in all) which occurred over a 4-year period;
- The gross breach of trust in that both complainants are closely related – as his wife, and his eldest daughter;
- The age disparity – he was 43 at the time the offending commenced, and Matlen was only 17;



- There is clear premeditation and planning involved in much of the offending;
- Much of the offending took place in the family home – an environment where the members of the family should rightly be able to consider themselves safe and protected;
- Some of the offending occurred in the presence of Mr Mahit's children;
- The impact of the offending on the complainants – Matlen fled her home and did not complete year 9 schooling, and her mother returned from NZ knowing that Mr Mahit had planned for another man to rape her;
- The use of threats and a weapon on one occasion to enable the offending to occur, as well as the use of threats to not report the offending to the authorities; and
- The touching of skin on skin when Mr Mahit touched Matlen's bare breast.

18. There are no mitigating aspects of this offending.

19. The appropriate sentence point I adopt, taking all the offending into account on a concurrent basis, is an overall sentence of 12 years imprisonment.

D. Personal Factors

20. Mr Mahit pleaded guilty to this offending at the earliest available opportunity. However, the prosecution evidence available to prove these matters was strong. Accordingly the mitigation available for a prompt guilty plea is set at 25% of the sentence start point.

21. Mr Mahit is currently 47 years old. He has no previous convictions.

22. Mr Mahit is currently unemployed. He previously contributed to his family's welfare by operating a small shop and by gardening/farming. He has good ties with the community and his church.

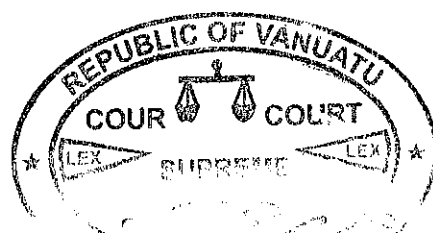
23. There has been no custom reconciliation ceremony.

24. For Mr Mahit's personal circumstances I further reduce the sentence start point by 6 months.

E. Sentence

25. The end sentence I impose on a concurrent totality basis is 8 years 6 months imprisonment.

26. I impose that sentence on the sexual intercourse without consent charge (Charge 4). I impose concurrent sentences of 18 months imprisonment on each of the indecent act charges (Charges 1 and 2); 30 months imprisonment on the abduction and the threat to kill charges (Charges 3 and 9); and 24 months on the domestic violence charges (Charges 6 and 7).



27. Mr Mahit has been remanded in custody in respect of this matter since 10 July 2020, and his sentence start date is accordingly back-dated to run as from 10 July 2020 to take that into account and to preserve his parole rights.
28. The nature and seriousness of the charges precludes any possibility of suspending any part of the sentence.
29. Mr Mahit has 14 days to appeal the sentences if he is dissatisfied with them.

Dated at Port Vila this 27th day of October 2020  
BY THE COURT

*Gerdien Ull*  
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Justice G.A. Andree Wiltens

