

**PUBLIC PROSECUTOR**

**v**

**HANNINGTON TENSELY ARUHILE**

*Date:* 2 November 2021  
*Before:* Justice V.M. Trief  
*Counsel:* Public Prosecutor – Ms B. Ngwele & Ms M. Tasso  
Defendant – Ms F.L. Kalsakau

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**SENTENCE**

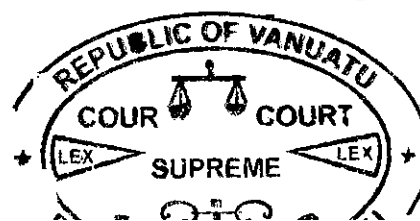
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A. Introduction

1. Mr Aruhile pleaded guilty to sexual intercourse without consent, threat to kill and domestic violence (Counts 1, 5 and 4) and two charges of acts of indecency without consent (Counts 2 and 3). He was convicted on his own pleas and the admitted facts.

B. Facts

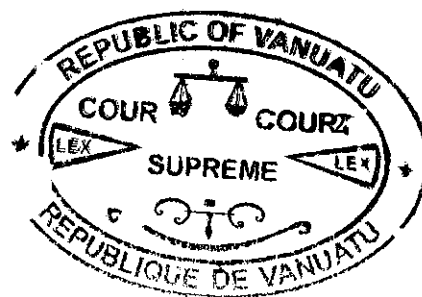
1. Mr Aruhile is the complainant JT's birth uncle. He is a bus driver. JT was 15 years old at the time of the offending. Mr Aruhile, JT and her mother live in the same yard at Mele Golf area.
2. In October-November 2020, Mr Aruhile touched JT's breasts over clothing knowing that she did not want him to (Count 2). After that his behaviour toward JT changed, going as far as accusing her of having sexual intercourse with his son or other male family members who visited them.
3. In January 2021, Mr Aruhile touched JT's vagina twice over her pants at home. This was done when no one else was around (Count 3). He threatened to kill JT's mother, grandmother and brother if she reported him.
4. Also in January 2021, JT woke at night and went to the toilet. When she opened the door and stepped outside, Mr Aruhile grabbed her, put his hands over her mouth and dragged her into his house. He had a small knife with him and told her not to make any noise or he would kill her and the rest of the family (Count 5). Mr Aruhile took her into his room, pushed her onto the bed and had sexual intercourse with her. JT struggled but was over-powered by Mr Aruhile. She felt a lot of pain in her vagina. After that, she went back to her house. She was too scared to tell her mother because of the threats made by Mr Aruhile (Count 1).



5. JT did not have her menstrual period the following month. She was so scared and worried that she had suicidal thoughts. She told Mr Aruhile that she might be pregnant. Mr Aruhile gave her local medicine and 2 pills to drink to stop the pregnancy. Also in February 2021, 2 boys from Mele village came to the house and spoke with JT. When Mr Aruhile found out, he kicked JT on her chest and slapped her on the head making her fall to the ground. He also tried to stab her with a knife and bamboo (Count 4). JT suffered a lot of pain after the assault. The assault occurred while her mother was at work.
6. In March 2021, the offending came to light when JT's mother discovered the suicide note that JT had written. A medical examination confirmed that JT was pregnant.

C. Sentence Start Point

7. The sentence start point is assessed having regard to the maximum sentences available, and the mitigating and aggravating factors of the offending.
8. The maximum sentences provided are:
  - a. Sexual intercourse without consent – life imprisonment;
  - b. Threat to kill – 15 years imprisonment;
  - c. Act of indecency without consent – 7 years imprisonment; and
  - d. Domestic violence – 5 years imprisonment or VT100,000 fine or both.
9. There are no mitigating aspects to the offending. However, the offending is aggravated by the following:
  - a. Breach of trust;
  - b. The complainant is a child;
  - c. The use of force and a weapon to effect the rape;
  - d. The offending occurred at home where the complainant should have been able to feel safe and secure;
  - e. Not using contraception, resulting in the complainant's pregnancy;
  - f. The repeat nature of the indecent act offending;
  - g. The number of different offences in a short 5-month period;
  - h. Telling the complainant not to tell anyone about the offending; and
  - i. The effect on the complainant, causing her to contemplate suicide.
10. I adopt a sentence start point of 12 years imprisonment taking all the offending into account on a global basis.



D. Mitigation

11. Mr Aruhile pleaded guilty at the first opportunity. He has spared JT the need to give evidence against him. For these factors, I reduce the sentence start point by 33%.
12. Mr Aruhile is 49 years old. He is in a *de facto* relationship. His partner takes care of the children's school fees. He is a bus driver by occupation.
13. He has no previous convictions. However, in offences of sexual nature, a person's previous good character has very little relevance in mitigating a sentence.
14. Mr Aruhile has performed a custom reconciliation ceremony with JT and her family which they accepted.
15. He has not accepted responsibility for his offending in blaming the complainant for what he says was flirtatious conduct between them. She was a child; he must take responsibility for his own actions. There is clearly no remorse.
16. For Mr Aruhile's personal factors, I further reduce the sentence start point by 3 months.

E. End Sentence

17. The end sentences imposed concurrently are:
  - a. Sexual intercourse without consent (Count 1) – 7 years 9 months imprisonment;
  - b. Threat to kill (Count 5) – 24 months imprisonment;
  - c. Acts of indecency without consent (Counts 2 and 3) – 12 months imprisonment; and
  - d. Domestic violence (Count 4) – 24 months imprisonment.
18. The sentences are back-dated to commence as from 7 September 2021 to take into account the 2 months 26 days already served in custody.
19. There will be no suspension of sentence: *Gideon v Public Prosecutor* [2002] VUCA 7.
20. All details leading to identification of JT are permanently suppressed.
21. Mr Aruhile has 14 days to appeal.

DATED at Port Vila this 2<sup>nd</sup> day of November 2021  
BY THE COURT

  
Justice Viran Molisa Trief

