

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

Criminal
Case No. 23/713 SC/RML

BETWEEN: Public Prosecutor

AND: Philip Sapa, Ansen Sapa Ialien, Joseph Sapa Ialien, Bob
Sul, Ben Kassou
Defendants

Before: Justice Oliver A. Saksak
Counsel: Mr Tristan Karae for Public Prosecutor
Mr Eric Molbaleh for the Defendants Bob Sul, Ben Kassou and Ansen Sapa
Dates of Trial: 2nd, 3rd and 4th July 2025
Date of Oral Verdict: 4th July 2025
Date of Written Verdict: 16th July 2025

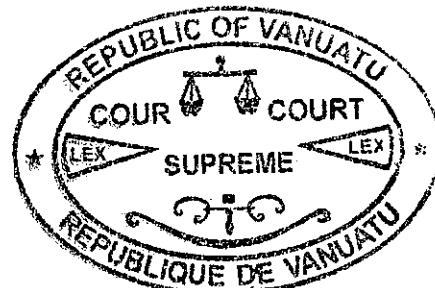
VERDICT

Introduction

1. On 4th July 2025 at about 4:30pm after hearing summaries and closing submissions from Mr Karae and Mr Molbaleh, the Court returned its verdicts orally as follows:
 - a) Bob Sul- Guilty of Inciting Intentional Homicide- Count 1, sections 30 and 106 (1)(a) of the Penal Code Act.
 - b) Ben Kassou- Guilty of Inciting Intentional Homicide- count 1, sections 30 and 106 (1)(a), Penal Code Act.
 - c) Ansen Sapa- Guilty of Intentional Homicide-Count 2, section 106 (1) (a), Penal Code Act.
 - d) Ansen Sapa- Guilty of Intentional Assault causing permanent Injury- section 107 (c), Penal Code Act.
2. The Court adjourned sentencing of the defendants to 28th July 2025.

Reasons

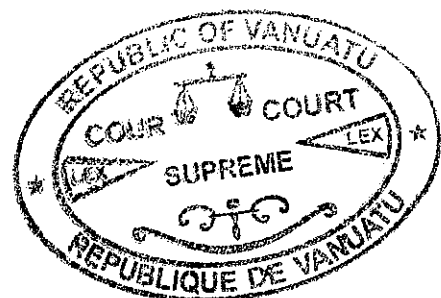
3. I now issue a formal judgment with reasons
4. Bob Sul and Ben Kassou were charged jointly that on 22nd September 2022 at Laul Nakamal, they both encouraged Philip Sapa, Joseph Sapa and Ansen Sapa to cause the deaths of Peter Ialien Iakume and Pastor Mark Iakume, the subject of the charge in Count 1. They both denied the charge.



5. Under Count 2 Ansen Sapa was charged jointly with Intentional Homicide along with Philip and Joseph Sapa by assaulting and causing the death of Peter Ialien lakume He denied the charge. Philip and Joseph Sapa admitted the charge and were sentenced accordingly.
6. Under Count 6 Ansen Sapa was jointly charged with Intentional assault on the body of Ps Mark lakume causing permanent injuries to his body. He denied the charge. Philip Sapa admitted the charge and was sentenced accordingly. Joseph Sapa denied the charge but Prosecutions entered nolle prosequi in relation to this charge.

The Law

7. Section 30 of the Penal Code Act provides:
"30. Complicity
Any person who aids, counsels or procures the commission of a criminal offence shall be guilty as an accomplice and may be charged and convicted as a principal offender."
8. Section 31 of the Act provides:
"31. Co-offenders
A co-offender shall mean a person who, in agreement with another, takes part with him in the commission of a criminal offence."
9. Section 32 of the Act provides:
"32. Punishment of accomplices and co-offenders
Subject to any express provision of law, an accomplice and a co-offender shall be punishable in like manner as a principal or sole offender."
10. Section 33 of the Act provides:
"33. Foreseeable consequences
Any accomplice or co-offender in the commission or attempted commission of an offence shall be equally responsible for any other offence committed or attempted as a foreseeable consequence of the complicity or agreement."
11. Section 106 of the Act provides:
"106. Intentional homicide
(1) No person shall by any unlawful act or omission intentionally cause the death of another person.
Penalty: (a) if the homicide is not premeditated, imprisonment for 20 years;
(b) if the homicide is premeditated, imprisonment for life."
(2) For the purpose of subsection (1), premeditation consists of a decision made before the act to make a homicidal attack on a particular person or on any person who may be found or encountered."



12. Section 107 of the Act provides:

"107. Intentional assault

No person shall commit intentional assault on the body of another person.

Penalty: (a) if no physical damage is caused, imprisonment for 3 months;

(b) if damage of a temporary nature is caused, imprisonment for 1 year;

(c) if damage of a permanent nature is caused, imprisonment for 5 years;

(d) if the damage caused results in death, although the offender did not intend to cause such death, imprisonment for 10 years."

Presumption of Innocence and Burden of Proof

13. Prior to Prosecutions opening its case, the Court read and explained the Statement of Presumption of innocence in section 81 of the Criminal Procedure Code Act [Cap. 136].

14. This provision includes the burden of proof resting on Prosecutions to prove the guilt of the defendants beyond reasonable doubt.

15. Section 8 of the Penal Code Act provides for the general rule as to the burden of proof. The legal and evidential burden of proof rests on the Prosecution to prove guilt beyond reasonable doubt. This is a high duty.

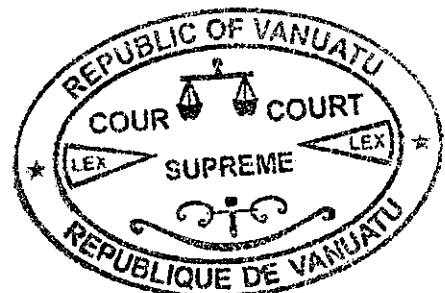
Prosecutions Evidence

16. PW1- Pastor (Ps) Mark lakume. His evidence is important, credible and relevant. I record his evidence as he said it in his examination in chief as follows:

" My name is Ps Mark lakume, a pastor of the SDA church for 28 years and have now retired. I live at Laul Nakamal. Deceased, Peter lalien laukume is my elder brother. We have the same father and we live together. My father adopted Ben Kassou's father. Bob Sul is my first cousin. .his father is my father's small brother. Ansen, Philip, and Josphe are sons of my father's big brother.

On 12 September 2022 Ben Kassou and Bob Sul came over from Santo. They held a first meeting at Illmanga Nakamal where they made allegations of witchcraft against Peter lalien lakume. They Also talked about the dispute over land on which the Airport is located and said the land is theirs.

On 19th September 2022 Ben Kassou, Bob Sul and Nipio held another meeting over Airport land. They summoned a meeting but no one turned up. They were 13 claimants but they said they are the ones entitled to the Airport moneys to receive it in the first instance and then to distribute it to the other land claimants. Yes I am also a land claimant to Airport land with my bother.



On 22nd September 2022 the meeting occurred at Laul Nakamal. Ben and Bob sent me a message to attend the meeting and I attended with Bob Iaukume. We did not know the purpose of the meeting. There were many people there including chiefs as well.

We sat down on a stool. I sat down with Peter and Bob behind me.

Bob Sul was the main man. He dominated the meeting with his speeches. Ben Kassou and Nipio Katena were also talking. They started with the land issues accusing us that we do not belong at Laul. Then Ben accused Peter of causing the deaths of some relatives and family members through witchcraft. He accused Peter of poisoning Samana, Nangen (women), Tom and Peter.

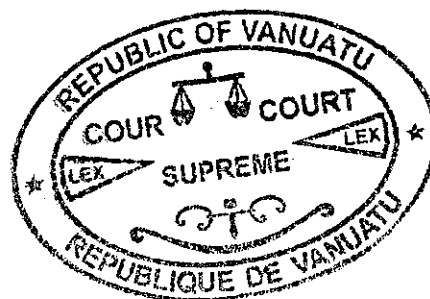
At this Bob Sul said and reminded that Peter be killed. They were standing as they spoke. They were directing Philip, Joseph and Ansen who were outside the Nakamal to act. They were hiding. Only Ansen was in the little grass house about some 19 meters away. Bob, Ben and Nipio stood by the entrance to the Nakamal. Bob Sul read out names of the deceased relatives and said that Peter and I should be killed. No one responded to his instruction immediately.

Then he spoke with more pressure and force. He accused the men of being weak like women. It was after Bob had spoken that Philip and Joseph came running into the nakamal with wood and nalnal and a short knife of 48 centimetres. They came past the nakamal to assault me. It was Bob who gave the command. Ben Kassou and Nipio were standing. They supported Bob's command that the people should kill us.

Jospeh came, picked up a piece of wood and went to hit Peter with hit. Ansen came out of the house, ran past the nakamal, picked up a piece of wood as well and joined Philip and Joseph in beating Peter. I stood up and watched for a while from 2 metres away. Then I moved closer to stop them. I held Philip's hands and told him to stop. He did not listen, so he cut me with the knife two times. I was in the middle of the fight between Philip, Joseph and Ansen. Ansen came and hit Peter with a piece of wood as big as my arm about 30 cm long. My brother was already knocked to the ground at the time. I saw him move but was slow. I saw Ansen hit Peter while on the ground. Philip hit me with the knife and wood three time. I fell down and was unconscious and did not know what happened after that.

It was Bob Sul who gave orders to kill us. At the time there were many people at the Nakamal. Bob repeated his orders more than two times to kill us. We wanted to talk (to explain ourselves) but Johnny stopped us. He told us to tal. Nipio said he came around to see Peter in the night but he was there.

As for the Airport dispute I know nothing about. Yes, the Area Council Secretary (Jimmy Iaput) was present at the meeting on 22nd September 2022 but he was not at the first and second meetings.

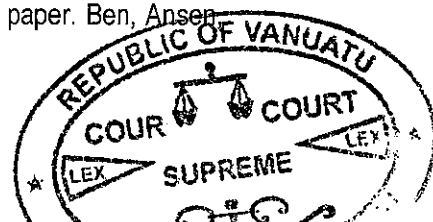


There were other men also involved who went to live with Bob and Ben in Santo and returned to Tanna. Sam Numake and some ordinary men were also at the meeting. They claimed to be chiefs.

Bob Sul read out the names of some dead relatives. I do not know why they killed me. Bob Sul said it was my late brother (Peter) who was responsible for the death of relatives (whose names were read out) Bob Sul alleged that Peter had connected with a man from Maewo by the name of Jimmy. I do not know who he is but I understand Peter's daughter is married to Jimmy. I do not remember how the connection was made between Peter and Jimmy. I do not remember hearing Ben or Ansen saying anything (about this).

17. PW2- Bob lakume. His evidence was translated into Bislama by a Police Officer. He is the brother of the deceased, Peter lalien lakume and Ps Mark. He is from lallamanga Village. His is unemployed, only does gardening. He is related to Bob Sul and brother and to Ben and Ansen as sons. About the meeting held on 22nd September 2022, he said he was with Peter and Mark. They attended the meeting, the three of them with many other people there. He sat close to Ps Mark and Peter. Sam Namilli was there too and talking about killing them (Ps Mark, Peter and I). They were talking from the other side of the nakamal. He said Nipio was also speaking about killing them dead. He saw Ben and Bob Sul there as well talking. He heard them accuse Peter of witchcraft and that because of that they should kill him. He said they were talking about a connection with a person to kill family members. As a result he said Philip, Ansen and Joseph came up to assault them. He said " I saw they were assaulting Peter too, so that I reached out my hand (to stop them) but Ansen broke my arm. I fell down and my son came to pick me up. I saw Ansen assault Peter on the head with wood while still standing. Joseph assaulted Peter too and he fell to the ground. Ansen hit my arm with a piece of wood"
18. PW- Marco lakuma, a 19 year old boy, son of Bob lakume. He was an unimpressive witness whose evidence did very little to the Prosecution's case.
19. PW- Joe Rangj, a Minister of the Gospel within the SDA Church since 2016 to date. He was formerly a teacher for 12 years before resigning. He is related to Ps Mark and Bob lakume. His mother is a descendant of these men. He is related to Bob Sul, Ben Kassou and Ansen was well. About the meeting of 22nd September 2022, he confirmed going to the meeting around 9:30pm. He went there to accompany Ps Mark to a baptism and marriage ceremony. He went there with uncle Yao. He said:
" when we entered, we heard daddy Bob Sul speaking loudly and aggressively. We heard him from across the river. We entered and went to sit down. There were already many people there, almost 800 people. People were already restless and ready to take action. Negative words were being uttered. First thing I heard was that he (Bob) was coming from Santo to see action, that he did not understand why people did not take action.

They had a list of names of dead relatives whose death were questionable in the sense they were not old people yet they died, implying they died because of witchcraft practices. They had read out the names before his arrival but he saw them holding the paper and waving it in the air when speaking. Bob Sul had told him about the names appearing on the paper. Ben, Ansen

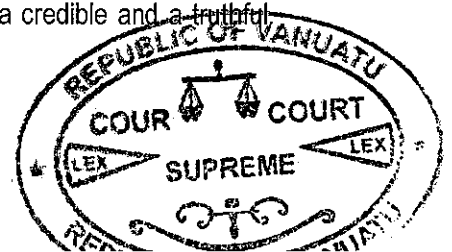


Sam Numuli and many more men were there on the northern side. I was on the eastern side some 6 meters away. They were some 10 meters away. Late daddy (Peter) pleaded for time for another meeting so the allegations could be proven, but Bob said "no"- that they had come specifically from Santo to Tanna to end the matter and no other chance should be given. I heard their plans to kill Peter and daddy Ps Mark as well. They accused the men of being "women". At this Fowler shouted "ATO" meaning "Kilim olgeta". Joseph reacted first assaulting Peter with wood which broke. Then he went for a walking stick and continued hitting Peter. Philip joined in the fight. He cut Peter with the knife. I then went to help out to stop the fight but narrowly escaped death as well. Peter was already on the ground. Ansen took a piece of wood and was hitting Peter with it when Bob lakume blocked with his hands and the wood landed on his left arm breaking it."

20. PW5 Jimmy Iaput Natuen, formally Chairman of the Area Council of Imanakel in 2022. As a practice he should have been made aware of the meeting but was not so informed. He went along merely as a family member. He heard chief Bob talking and calling names of dead people. Tenson was already high. He heard Fowler threatening. Pastor Mark and Peter. Ben Kassou referred to a list of people who died and they accused Peter of causing their deaths. I had a voice saying "Kill them" but did not know who said it as there were many people there. I saw Philip, Joseph and Ansen fight. Pastor Mark, Peter and Bob. I was helpless, I was afraid they would kill me too. The sight of the killing was beyond description. Many people could not take it and left the scene. Police arrived and talked to the defendants but I kept the distance. If they had not come from Santo nothing would have happened.
21. PW6 David Haulik. He was also an unimpressive witness whose evidence was not of any assistance to the prosecution case.
22. PW 7- Sargent Jack Noka working in the General Duty Section for 21 years. He said he and 4 other police officers attended the scene after receiving a telephone call around 11:00am. They arrived at Laul Nakamal at about 12:07pm. He saw many people at the scene and saw fresh blood on the ground. The atmosphere was tense. He spoke with the defendants and told them to go with them to the Police station but they refused. He said Ben Kassou threatened them that if they were arrested another 20 people would be dead because it was Nakamal that decided, not them. He said he heard Ben Kassou from a distance of 5 meters. He told them if they did not, come with them willingly a charter flight would bring reinforcements from Port Vila but Ben also said he too would arrange a charter to come from Vila. He said Bob Sul and Sam Numule were with Ben at the time. He said other people had told him it was Philip, Joseph and Ansen who had assaulted the deceased and Pastor Mark. He said it was Ben and Bob who had arranged for the meeting to take place and to ensure the killing take place.

Analysis of Prosecution's witnesses and their evidence

23. First Pastor Mark's evidence was detailed. In cross examination he did not shift. He was firm and consistent despite defence counsel attempted to discredit him due to him having made three statements to the Police on different dates. I found him to be a credible and a truthful

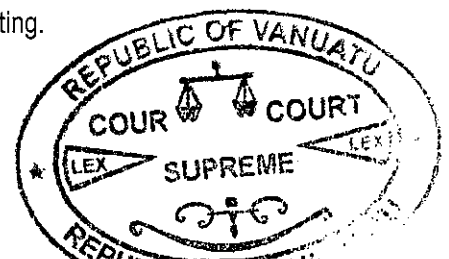


witness. He told the Court about what he saw and heard Bob and Ben said and did. He saw what Philip, Joseph and Ansen did to Peter (deceased) and Bob lakume and himself.

24. Next Bob lakume. Although he was not fluent in Bislama and was assisted by a translator, I found him to be a man of understanding. He understood the questions asked in both Chief and cross and he answered them well and correctly. His evidence confirmed the evidence of Pastor Mark as to what Bob Sul and Ben Kassou said and did, and to the actions of Philip, Joseph and Ansen following the instructions and encouragement of Bob Sul and Ben Kassou. In cross examination he maintained his position and did not shift. I found him to be a credible and a truthful witness.
25. Joe Rangji gave detailed evidence about what he heard Bob Sul was saying as he approached the nakamal. He saw the involvements of both Bob Sul and Ben Kassou at the meeting. Despite he told the Court there were about 800 people at the nakamal, he saw the actions of Philip, Joseph and Ansen clearly. He saw Ben holding a paper when speaking out. He heard Fowler shout the command to kill at which Philip Joseph and Ansen responded and assaulted Peter causing his death. He saw Pastor Mark assaulted as well. I found him to be a credible and a truthful witness as well.
26. Jimmy laput gave evidence of what he saw and felt at the time. As a respected chief that respect was not available when he tried to step in to stop his relatives from fighting Pastor Mark and the deceased. He heard what chief Bob Sul said an that Ben Kassou read the names of dead people from a list he had in his hand. I found him to be a truthful witness.
27. Sargent Jack Noka. Although he arrived late at the scene he told the Court about how the defendants resisted arrest and threatened to cause further deaths if arrested. That indicated the attitudes of the defendant towards the law and their arrogance that what they did was justified.

Defendants Evidence in Defence

28. Ben Kassou gave evidence responding to the evidence of Pastor Mark, Bob lakume and other prosecution witnesses. He denied giving any instructions to kill Peter and Pastor Mark. He admitted holding a paper at the meeting. He also denied the allegation that it was Bob Sul who gave the instructions to kill. He said Ansen Sapa was there but he only went over to stop Philip. He explained the warning stated by Sargent Jack that if they were arrested, another 20 people would be dead. He said this was a misunderstanding. What he meant was about the 20 relatives who had already died and whether their arrest would justify the deaths of those people.
29. Bob Sul. He too was asked to respond to the statements or evidence made by the prosecution witnesses against him. He denied saying words the witnesses told the Court he spoke. But he accepted that he stood up at the meeting and talked about people who had died as a result of witchcraft practices. He accepted there were about 800 people at the meeting.



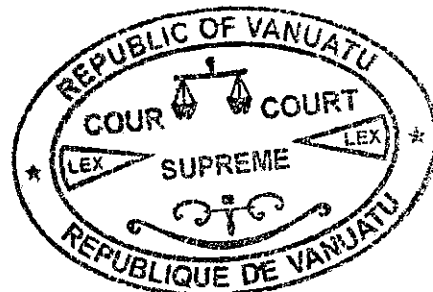
30. Ansen Sapa. He accepted the evidence that he was in the little hut and that he crossed over to the nakamal but did not hold any wood. He said he went over to remove Philip from the group assaulting Peter Ialien. He denied what Joe Rangi told the Court in evidence that he assaulted Peter on the ground with a piece of wood. He denied hitting Bob Iakume's head and breaking it.
31. Malike Jacob- he gave evidence in defence . Mr Karae objected to his evidence on the basis of the case of Browne v Dunn and the Court allowed the objection and disallowed this evidence.

Analysis of the Defendant's evidence

32. First the evidence of the Ben Kassou and Bob Sul. They were inadequate and insufficient. They were asked only to respond to what proposition witnesses said they saw then do or heard them say. They could have been allowed to tell their own story from beginning to end. They were not asked to give alternative names of chief or persons who arranged for them to travel from Santo to port il and on to Tanna, for what purpose and who paid for their travelling and accommodation expenses if any. If a Nakamal or chiefs had arranged for their travelling, they had no evidence. They had no evidence from Fowler or Sam Namule to rebut prosecution's evidence that they had encouraged people to do the killing. Their evidence lacked credibility. They were both untruthful witnesses.
33. Ansen Sapa. His evidence too was inadequate and insufficient. He tried to paint a picture that he went over to remove Philip but the evidence of the Pastor Mark, Bob Iakume, Joe Rangi and Jimmy Iaput had more weight against his evidence in denial. His evidence also lacked credibility.

The Issues

34. Did Bob Sul and Ben Kassou encourage, and, counsel or procure the commission of the offence of intentional homicide resulting in the death of late Peter Ialien Iakume? From the evidence they both live on Santo. They both came over to Port Vila and then on to Tanna. They arranged for the meeting that took place at Laul Nakamal on 22nd September 2022. They contacted Pastor Mark and others to attend the meeting. They admitted having a list of names of deceased relatives and family members. Evidence show they both were present, standing and speaking loudly and aggressively at the meeting. They spoke in favour of killing Peter and Pastor Mark. They denied them their plea for another meeting where they called for proof. They labelled men " women" provoking Philip, Josphe and Ansen to react and take action to put their intentions into action. I am therefore satisfied that by their actions, words and attitude towards the chiefs and the Police, Bob Sul and Ben Kassou had encouraged, aided, counselled and procured the intentional killing of late Peter Ialien Iakume by Philip, Joseph and Ansen Sapa on 22 September 2022. As such they had become accomplices to the offence of Intentional Homicide. I am satisfied Prosecutions had proven the elements of the charge in Count 1 against both Bob Sul and Ben Kassou, beyond reasonable doubt. They were both guilty of the charge as accomplices.



35. Did Ansen Sapa commit the offence of intentional homicide by causing the death of Peter Ialien lakume?

The evidence of Pastor Mark, Bob lakume and Joe Rangi confirm and show beyond reasonable doubt that Ansen Sapa was a co-offender with his brothers Philip and Joseph Sapa in assaulting the late Peter Ialien Iaukume. He held a piece of wood and hit Peter with it whilst he was already on the ground. When Bob lakume tried to stop him, he hit his left hand with the wood breaking the arm. That shows the determination of Ansen Sapa and how he was not going to be stopped even by an elderly man, a close relative. I therefore found Ansen Sapa guilty of intentional homicide in Count 2, beyond reasonable doubt.

36. Did Ansen Sapa assault Bob lakume causing permanent injury? The evidence by Prosecution was overwhelming. The doctor's medical report was tendered into evidence by agreement. Prosecutions had proved this offence beyond reasonable doubt. I found Ansen Sapa guilty as charged.

Convictions entered

37. Bob Sul, Ben Kassou and Ansen Sapa are hereby convicted as charged in Count 1, 2 and 6 accordingly.

Remanded in Custody

38. The three defendants are remanded in custody at the Correctional Centre in Isangel, Tanna pending their sentences on 28 July 2025.

39. Their warrants of remand are extended accordingly.

DATED at Port Vila this 16th day of July 2025

BY THE COURT



Hon. OLIVER A SAKSAK

Judge

