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IN THE SUPREME COURT )  
OF THE TERRITORY OF )  
PAPUA AND NEW GUINEA )

CORAM : OLLERENSHAW, J.  
Monday, 28th February, 1966.

THE QUEEN v. WAU - WAMANA.

FOR SENTENCE.

The offender has pleaded guilty to and has been convicted of the crime of attempting to commit rape for which the Code provides a maximum punishment of imprisonment with hard labour for fourteen years.

He is a well-developed young native man with particularly strong-looking arms and said to be, and appearing to me to be about eighteen years of age. He is a Chimbu from Bendem near Kundiwai.

He was employed at the time by the husband of his victim as a domestic servant at their home in Korobosea, near the Port Moresby suburb of Boroko, and had been so employed for some seven months before this crime.

She is a young married woman, twenty-one years of age, and was alone in her home at the time. He took advantage of her being alone there to make this attempt upon her at about two o'clock in the afternoon.

He had brought some ironed clothes into the house and stood in the kitchen watching her prepare some food for cooking. He suddenly made advances, putting his arms around her shoulders and trying to kiss her. When she resisted him and ordered him to go away he grabbed her asking for intercourse and there ensued an encounter through the house in which the greatest determination was shown on both sides.

I will not repeat all that happened. At one stage he was over her on the floor with the zipper of his shorts undone and her dress was torn and her pants torn off her or almost. When she was trying to get up he was threatening to kill her if she did not give in. When it was over the living room, as described in detail in the depositions, presented a scene of complete chaos. It is clear that it was her frenzied defence that saved herself from the offender's purpose and him from the graver crime of rape itself. She was handicapped in screaming because she had an attack of laryngitis at the time. At her first attempt to get out of the house he grabbed her and locked the door she had opened.

She eventually eluded him, ran out the back door and escaped with numerous bruises and abrasions and in a state of extreme physical exhaustion and mental distress. She received medical treatment for her mental condition during some three or four days.

I would repeat what I said generally about attacks of this nature when I imposed sentence in the trial of the The Queen v. Opu-Ame on the 21st of this month.

In this case the accused is younger and the victim of his attack is older and, perhaps, it was not conceived with the same cunning and premeditation.

Although he comes from a village which has long been under strong Administration and Mission influence - he was wearing a cross on a chain at the time - he has had only a year's education, attaining Standard 1. His only employment by Europeans prior to the engagement, which led to this crime, was as a domestic servant at Goroka for six months.

He is, however, an intelligent person and was well aware of the wrongfulness and the criminal nature of his attack for which there was not the slightest encouragement nor any excuse except ordinary temptation, which he and others with like impulses must learn to resist.

I regard as nonsense his statements to the effect that his mistress attacked and cut him on the cheek with a knife and hit him with an electric fan because he was grumbling about the amount of work he had to do and that this led to a struggle in which he was defending himself and conceived the notion of raping her.

He has no prior convictions and has been in custody since the 17th of November last.

In all the circumstances I impose a sentence of seven years' imprisonment with hard labour.