IN THE CENTRAL DISTRICT MAGISTRATE'S COURT – AT HONIARA

Criminal Jurisdiction Criminal Case No.: 180 of 2022

Nickson Tonowane for the Prosecution

Daniel Kwalai for the Accused person

BETWEEN:	REGINA	Complainant
AND:	JENICE UHELE	Accused

SENTENCE

Jenice Uhele is the accused in this case. Her appearance today is for the Court to impose sentence on her after she had pleaded guilty to the offence for which she has been charged. The charge that was instituted against her is 'Making false report, contrary to section 188 of the Police Act 2013.

The facts

On the 10th of May 2019, the defendant whilst under the influence of alcohol went to the Henderson Police Station. There she made a written complaint with the assistance of Police Officer Nathalyn Mataveke that her father Ataban Baki had sexual intercourse with her.

The defendant in her statement said that her father had sexual intercourse with her on several occasions in 2012. As a result, her father was arrested and charged with the offence of incest.

On the 22nd of July 2019 the defendant gave another statement to the Police stating that the allegations that she made two months earlier were false and they did not happen. The defendant told the police that she made the complaint because she wanted to get married but her father did not approve. Thereafter, the charge of incest that was laid against her father was withdrawn.

On the 29th of June 2022 defendant was arrested for the offence of making false report pursuant to section 188 of the Police Act 2013 and was remanded in custody since then.

She is from Balo village, East Guadalcanal. She was 19 years old at the time of offending. Those are the facts that constitute the current charge against the accused.

Aggravating factors

The following factors aggravate this offending. First, the accused whilst well aware that the allegation that she was about to lodge with the Police was and is false, proceeded and lodge the false report against her father. She deliberately used the criminal justice system as a revenge

against her father for not allowing her to get married. This is also indicates that the offending was pre-planned.

The false report that she made against her father also shows that she did not have respect for her father. Instead of resolving the issues between her father and her within their family setting, she had allowed anger to take control of her and lodge the serious allegation against her own father. This is serious.

I note from the facts that she was under the influence of liquor when she attended the Henderson Police Station and lodged the false complaint.

She did not have a second thought about the impact of her false report, not only on her father but the Police Investigators. The Police had wasted their time and resources to investigate the allegation against her father.

Mitigation

The mitigating factors that I have considered in favour of the accused are; first, the fact that she had pleaded guilty to the offence. This plea has saved the court's time and resources and also shows remorse on her part and her willingness to face the consequences of her action. The second mitigating factor I take into account is that, she is a first time offender. This is her first time to be in conflict with the law.

The Defence submitted that the Court should take into account delay. The Crown submitted that there is no delay. I have considered the submissions and I am of the view that there is no delay in this case. Even if there is a delay, the reasons for delay are well explained by the Crown. The delay in instituting the criminal proceeding in this case was because of the delay in completing the case of R v Ataban Baki, in which the accused in this case was the complainant. She was a crucial Crown witness in that case and was required to give her evidence under oath in court. It was only when she denied the allegation she reported to Police that the High Court proceeding was terminated and the Crown decided to press charges.

Sentence orders

When I looked at the facts of the case, I am of the view that the starting point of 9 months imprisonment is appropriate.

To reflect the aggravating factors, 3 months is added to the starting point. That increases the sentence to 12 months imprisonment.

Having considered the mitigating factors, I am also conscious of the guideline remarks made in the English case of ***Millberry v R***[1] where the Court said; "the defendant's good character, although it should not be ignored, does not justify a substantial reduction of what would otherwise be the appropriate sentence." I will deduct 3 months to reflect the mitigating factors.

The effective imprisonment term to be served by the Accused is 9 months imprisonment. It is also my considered view that this sentence, not only serve as punishment but also carries the message of deterrence, both specific and general deterrence.

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[1] [2002] EWCA Crim 2891 (09 December 2002) at para 29; 2003 1 Cr App R 142

The sentence is back dated to commence on 29th June 2022. The day she was remanded in custody.

The Court,

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Ricky Iomea

DCM