

**IN THE CENTRAL MAGISTRATE'S COURT OF SOLOMON ISLANDS  
SITTING AT MARAU**

CRIMINAL JURISDICTION

*Criminal Case No. 498 of 2023*



**BETWEEN: REX**

**AND: ADACENT VITORE**

**Date of Hearing:** 20<sup>th</sup> July 2023

**Date of Verbal Sentence:** 20<sup>th</sup> July 2023

**Date of Written Sentence:** 24<sup>th</sup> July 2023

Ms. Monica Rehomora for the prosecution

Ms. Jenifer Happylyn for the Accused

**SENTENCE**

1. On 20<sup>th</sup> July 2023, I sentenced Adacent Vitore to 30 months imprisonment. These are the reasons for the sentence.
2. The Accused, Adacent Vitore, pleaded guilty to one count of common assault, contrary to section 244 of the *Penal Code* and one count of arson, an offence that carries a maximum penalty of life imprisonment as prescribed under section 319 (a) of the *Penal Code*.
3. The Accused is a 40 year old married man with five children. He comes from Valetako village in East Guadalcanal. The victim for the common assault charge is his step daughter, named Daeni. She is a young girl of less than 18 years of age. The owner

of the house that was burnt by the Accused for the arson charge, is his younger biological brother named David Pisa.

4. The summary of facts tendered to the Court revealed that on 2<sup>nd</sup> June 2023 at around 11:00am, the Accused approached Daeni and punched her repeatedly with closed hand fist on her head and back. He also kicked her body besides punching her head and back. The reason he assaulted her was due to his disapproval with the victim for going to another village to watch a soccer game.
5. When the Accused assaulted the victim, his brother, David Pisa ("Pisa") and another, Steven Seti came in and tried to calm him down. Realizing that the Accused did not stop from assaulting Daeni, Pisa then used his right hand and locked his neck in order to restrain him from further assaulting Daeni. The Accused and Pisa had a struggle and they both rolled down to the bottom of a slope. It was there that Pisa realized the Accused was unable to breathe and so he released him and escaped out from him.
6. The Accused was very angry with what Pisa had done to him and so he went and took his large bush knife and went around in their village, searching for Pisa. He could not find him. Being overcome with anger, he walked straight to Pisa's dwelling house, took a dried dead bamboo and set fire to it. He then put the fire to wall of Pisa's dwelling house and that house was completely burnt down.
7. There was no evidence as to the value of the house although it was agreed that it was a six posts dwelling house made of bush or local materials. These items were also burnt in the house: (i) 2 x small pots; (ii) 1 x plate; (iii) 1 x single mat valued at \$47 and (iv) 1 x power bank solar.
8. For purposes of his sentence, I took into account his guilty pleas, being a first time offender, being a family man with 5 children and his remorse which has outwardly resulted in the admission of the offences. I have considered and afforded due considerable weight to all his other personal factors ably submitted on his behalf by his lawyer. In this case, there is no evidence of any reconciliation.

9. The common assault charge is a misdemeanor offence with a maximum penalty of 12 months imprisonment. Despite the absence of any medical report, I consider his culpability quite serious. This was reflective in the repetitive assaults wielded against the young defenseless girl. I also consider the repetitive hitting with closed hand fist on the head of the victim being a vulnerable part of her body. These are gratuitous forms of cruelty on the victim. Hence, it is my view that a custodial sentence is appropriate. I set a starting point of 2 months imprisonment. This term is increased by 2 months to reflect the aggravating factors but have it reduced by 1 month to accommodate the mitigating factors. The final sentence for this charge is **3 months** imprisonment with immediate effect.
10. For his arson charge, as said by the Court in previous arson cases, the offence of arson or the unlawful burning of other's property(s) is a very serious crime. When it involves a burning of a dwelling house, is even more serious. This is because it is a destruction of one's home and shelter. Human beings cannot live or survive without a home or shelter. So when someone destroys another person's home or shelter by fire, is another way round of destroying the lives and making that person becomes homeless.
11. Typically, the categories of arson in Solomon Islands include:
  - (a) a dwelling house with people inside;
  - (b) a dwelling house without any occupants;
  - (c) public institutions such as schools, hospitals, or offices with occupants inside;
  - (d) public institutions such as schools, hospitals, or offices without occupants inside; and
  - (e) a house wind, a kitchen, a garden house or a run down and deteriorated or incomplete structure.
12. In the present case, the Accused action falls under category (b), that is, the burning of a dwelling house without the occupants.
13. I find his action is simply out of character. If he was angry with his brother Pisa then commonsense dictates that he should have settled that grievance through a lawful and appropriate ways rather than resorting to burning of a house. Resorting to crimes

cannot solve a problem. It only adds another layer of problem to the existing one with regrettable consequences. If I am to accept his explanations as good reasons warranting his wrongdoing then I will be seen as sending a wrong message to the public.

14. From the facts, I find the following as aggravating factors to this arson charge;
- (a) Loss of the house or property;
  - (b) The accused had deliberately decided to burn the house. He successfully executed and accomplished his felonious intent and desire in the burning of the house;
  - (c) The burning of the house was deliberate and intentional; and
  - (d) The house was burnt with few items. They were destroyed which caused loss of property to the complainant, David Pisa.
15. With the above aggravating factors and combined with the seriousness of the offence, a custodial sentence is inevitable. Whilst it is acknowledged that the burnt house was made up of bush or local materials; that cannot exculpate the Accused from the consequence of committing a serious crime. The law simply prohibits the burning of other people's homes whether or not it is made of thatched materials.
16. I have considered these decisions to assist me in determining the sentence for the accused:-
- (a) R –v- Sasa [2019] SBMC 5, the accused pleaded guilty to a charge of arson. The accused went to the victim's place of residence and set fire to his leaf/thatched roof kitchen house which was built near their dwelling house. The accused was sentenced to 6 months imprisonment, fully suspended for 2 years.
  - (b) R –v- Junior [2016] SBMC 23, the accused was charged with arson together with other offences. He went to the victim's house, started calling and yelling for him but he was away at another village. He frightened the victim's wife and she escaped with her children. The accused then collected dry coconut leaves, set ablaze and placed it on the walling of the house. The house valued at

\$31,639.00 was completely scorched to the ground. The court considered all the pertinent factors and sentenced him to 3 years imprisonment.

(c) R –v- Mino [1997] SBHC 40, the accused pleaded guilty to an arson charge. He used 6 cans of four litre petrol to burn a building used by a logging company as office. Monies and valuable properties kept in the building were destroyed. The accused committed the offence as a result of resistance towards logging operations in the area. The accused was sentenced to 3 ½ years imprisonment.

(d) R v Rosini HCSI-CRC No. 157 of 2017, the accused pleaded guilty to burning of the old Gizo Hospital building. He committed the offence as retaliation over him being locked inside a small room in that building over a belief that he has an unstable mind. He was sentenced to 3 years imprisonment but was ordered to release at the rising of the court since he had spent more than 3 years in custody.

17. For the present case, it is trite cardinal principle in law that I must impose a sentence that is proportionate with the culpability of the Accused and more importantly, the value of the house as well. For the case of the Accused, it is clear that he burnt an unoccupied dwelling house. I consider his case is at a midrange of the sentences imposed for arson cases involving burning of unoccupied houses.
18. It is my view that a starting point of 26 months imprisonment is appropriate for this case. This sentence is increased by 6 months to reflect the aggravating factors in this case but have it reduced by 4 months to reflect all his mitigating factors, making it to a final term of **30 months imprisonment.**
19. **The Accused is sentenced to 30 months imprisonment. Both sentences are to be run concurrently.**
20. Order accordingly.



(Augustine Sylver Aulanga—Principal Magistrate)