

**IN THE MAGISTRATES COURT  
OF THE REPUBLIC OF VANUATU**  
*(Criminal Jurisdiction)*

**Criminal**  
**Case No. 20/657 MC/CRML**

**BETWEEN: Public Prosecutor**

**AND: John Peter Jubiter**  
**Defendant**

***Date of Plea and  
Sentence:*** ***20<sup>th</sup> March 2020***

***Before:*** ***Naieu T***

***In Attendance:*** ***Accused in Person***  
***Jupiter Alang (Accused Father)***  
***Wilten Killet (Accused Family representative)***

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**SENTENCE**

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**Brief Background**

The accused de facto Partner the victim namely ***Jinet Edward*** with the help of the Malampa Counselling Center filed an application for Family Protection Orders to the Court dated 12 March 2020.

In light of the serious allegations mentioned in the application, I Pursuant to *Section 35 (1) (2) (3) of the Criminal Procedure Code Cap 136* drew up the following documents;

- **Judicial Charge** - against the Accused under Section 4 and 10 of the Family Protection Act
- **Oath**- Signed by the Victims father on her behalf and myself. Usually the victims took the Oath but when asked the victim's parents where the victim was, the victim's father responded that "my daughter is currently looked inside the residential house of the perpetrator and we are very worried for her safety". The nature of the Oath was explained to the Victim's father and he consented to proceed on her daughter's behalf.
- **Arrest Warrant.**
- **Domestic Violence Protection Order.**



The accused was arrested by the Police and brought to Court on the 16<sup>th</sup> March 2020 as per the Warrant. The accused was then on that same date of arrest got informed by the Court about the Judicial Charge drafted by the Court and his right to seek legal advice and representation. He was then released on bail and to appear for Plea on the 20 March 2020.

An application for Variation of Bail conditions by one *Kisito Teilemb* and *Chief Gabby* on behalf of the accused was filed on the 17 March 2020 and was granted to allow the accused to return to his home Village to Vote in the National general election.

On the 20 March 2020, the accused appeared for Plea but I decided better to give him few more days should he needed more time to seek legal advice or representation. The matter was listed for Plea on the 26 March 2020 at 10 O'clock in the Morning.

### **Plea day**

The accused appeared for plea on the 26 March 2020 with his father *Jupiter Alang* and a family representative one *Wilten Killet*.

At all the material times the Prosecutor in Malekula was on leave and is still on leave till June 2020. There is only one full time prosecutor in Malekula.

The plea took place in the open Courtroom whereby I as presiding Magistrate read the Judicial Charge to the Accused and presented him with the facts of the allegation mentioned in the Victim's application for Protection Orders.

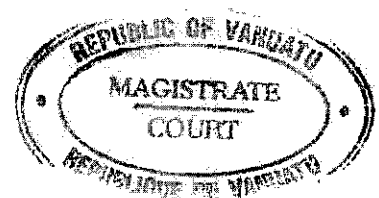
The accused was given enough time to respond to those allegation including allowing his father *Jupiter Alang* and one *Wilten Killet* to make few statements on behalf of the accused.

This hearing was different from all other Criminal hearings I presided over because they was no presence of a Prosecutor nor a Defense counsel but I decided to proceed because I see no injustice to the accused since reasonable time was given to him to seek legal advice or legal representation although there is no law firm or a Solicitor working and residing in Malekula Island. The victim and her family members on the other hand wants justice, law and order to take its course therefore I see justice delayed is justice denied.

Two Police officers were asked to be present for the hearing.

### **Introduction**

1. The accused person *John Peter Jubiter* pleaded "guilty" to one count of;
  - *Domestic Violence – Contrary to Section 4 and 10 of the Family Protection Act No 28 of 2008.*



## **The Violence**

The relationship was sweet and safe since the Defendant and the victim started dating in 2017 until when they decided to live together that the violence began. The Defendant never allowed the victim to wear clothes of her choice but direct her to wear clothes of his choice whereby failure resulted the Defendant to cut up her clothes to pieces. The Defendant does not give the victim permission to visit her parents whereby failure resulted in assault that on many occasions the victim suffers injuries to her face and body and even get told to be slaughtered with a knife. The Defendant will lock the victim inside their house and assaulted her even tie her up with a rope and beat her up. This routine of violence continued since 2017 to date even when the victim got pregnant. Upon seeking help from the Malampa Counselling Center, the victim was 8 months pregnant. The victim was a prisoner in the home that should have been the safest, caring and loving home whereby she was not allowed to visit family members or even go to the hospital for checkup while pregnant.

## **Mitigating Factors:**

- Early guilty plea.
- First time Offender.
- Remorseful (for his attitude).

## **Aggravating Factors:**

- Serious offending.
- Breach of trust, love and affection.
- History of repeated violence with injuries sustained by the victim.
- Damages to her personal properties.
- Use of weapons (rope) and locking her inside the house during the violence and not allowing her to seek help from her family members.
- At the time of applying for the non-violence order, the victim was 8 months pregnant.

## **Verdict**

2. Having heard from the accused and his two representatives AND giving careful consideration in weighing the Aggravating and the Mitigating factors of the offending AND deciding whether or not the elements of the offence committed are met



I AM SATISFIED that the Aggravating factors of the offending outweigh the Mitigating factors AND that all the elements of the offences committed are met therefore, **Convict** the accused person **John Peter Jubiter** for the offences of;

**Domestic Violence – Contrary to Section 4 and 10 of the Family Protection Act No 28 of 2008.**

#### **Sentence**

- Starting point of 36 Months imprisonment.
- Taking into account the Defendant's early guilty plea; I HEREBY SENTENCE the Accused **John Peter Jubiter** for,
  - Eighteen (18) Months Imprisonment to take effect immediately.

#### **Suspended Sentence**

I was reluctant to suspend part or whole of the sentence because domestic violence in Malekula and many remote Islands and villages in Vanuatu is a growing concern but is treated as an issue or problem limited only to husband and wife or the family that no one wants to be a part of or to interfere. Chiefs and family members including other people in the community merely blaming the victim for instigating the violence by the way she dresses, or the people she associate with and what she consume or where she goes is a mindset that needs to be corrected. Women should not be blamed for instigating domestic violence for the reasons above and this is a challenging task to change people's mindset to respect woman and their choices not only for the Courts but for everyone. Vanuatu being a male dominant country dated back from our ancestors through custom law and authority whereby men are always given the power, authority and freedom to decide unlike women does present the challenge to change people's mindset. The perpetrator in this case is classified not as a one-time perpetrator of domestic violence but a repeated perpetrator of violence therefore I see proper to give him an imprisonment sentence so he can learn and change his violent behaviors than wait to impose this sentence when his violent behaviors gets worse resulting in death. A sentence of imprisonment with no suspension for such perpetrators with repeated



history of domestic violence does send that clear message to perpetrators of violence in our communities to respect women and a "NO" to domestic violence.

#### **Reasons for Sentence**

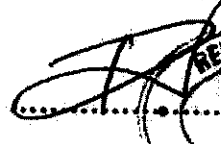
- Deterrence to the accused and a deterrence alarm message to others in the society that domestic violence is not tolerated by the Court.
- Woman must be respected and not be taken advantage of because of their vulnerability.
- Domestic violence is a growing concern not only in Malekula but the rest of the Country whereby sometimes resulted in death.
- Repeated history of violence since 2017 to date.


#### **Right to Appeal**

3. The accused has 14 days to appeal.

**DATED at Lakatoro this 4<sup>th</sup> day of May 2020.**

**BY THE COURT**

  
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**Trevor NAIBU**  
**Magistrate**

  
REPUBLIC OF VANUATU  
MAGISTRATE  
COURT  
REPUBLIQUE DE VANUATU