

Public Prosecutor :

-V-

Willie Tataki

Coram : Hon. Chief Justice

Public Prosecutor : J. Baxter-Wright
Mrs S. Bothmann Barlow for the defendant.

SENTENCE

The defendant pleaded guilty to a serious unprovoked assault on his wife at 9 am. on the 1 July this year at her place of work. It appears that he had been drinking with friends all night. One of whom was also another serving police officer. He is charged under S.107 (c) of the Penal Code Act, namely with the offence of intentional assault causing permanent injury. The permanent injury plainly is the scar that his wife will have to her nose for the rest of her life.

The prosecution alleges, that while drunk on the morning of the 1 July, the defendant made his way to the Tennis Club where his wife worked, and into the area where she worked. After being told by her to go home and sleep because they had a fund raising event for their children the next day, he left, came back shortly thereafter and asked her questions about 200 vt that she had given to a prisoner called Tom Lui. She explained that she had given the money to the man after he had told her that he (the defendant) owed the money to Lui, in the belief that she was repaying a debt of his. The defendant then punched and kicked her to the face and body until she became unconscious, causing her various injuries to the face and body, the worse being a cut to the nose that required suturing. This has left her with a lasting scar. She was taken to hospital unconscious and only came to once she was there. She spent 6 days in hospital and 12 days off work.

It is accepted by the defence that this was a completely unprovoked assault by the defendant on his wife, at a time when he was seriously drunk. It is said that he behaved in this way because in his drunken stupor he had been led to believe by Tom Lui, that his wife was being unfaithful to him. Apparently some time ago, a long time ago, she had been unfaithful to him, but they had since reconciled. The effect of what was being said by Mrs Barlow, was that it was his state of drunkenness that was the cause of his misconceived impression rather than there being any truth in what he was alleging against her, namely that she was being unfaithful to him.

At the time she was just pregnant, though I accept that the defendant knew nothing of that. In any event she did not miscarry as a result of the attack on her, very fortunately. The defendant has pleaded guilty on the first opportunity available to him. He now

says that he is very remorseful and wished to reconcile with his wife. There seems little likelihood of that at the moment from what I have seen in this Court.

In sentencing this defendant, I have given very careful consideration to everything that was said by Mrs Barlow on his behalf. I take into account his plea of guilty and his belated contrition. Had it not been for that, I would have sentenced him to 18 months' imprisonment. Nevertheless I cannot ignore the seriousness of this case for a number of reasons:

1. He is a serving police officer and has the duty to protect the public
2. Assaults on women in Vanuatu have become a disease, it appears to have become almost an accepted fact of life in Vanuatu, and it is a growing disease.

I take the view, as I have said on numerous occasions before, that the courts are there also to protect the individuals, women particularly, from violence at the hands of men. We do not find it an accepted form of behaviour and will do everything we can to discourage it. Nor does the fact that the victim is the defendant's wife, render assaults on women more acceptable or less serious. A wife is as entitled as anyone else to the protection of the law. The court has a duty also to punish those who commit violent crimes and to try to deter them from behaving in a like way again.

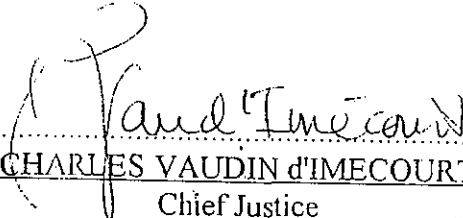
The court has also a duty to deter others from behaving in a like way. I would be failing the victim of this very violent, unprovoked assault and the women of Vanuatu generally if I took a different approach. I know that it takes enormous courage for women in Vanuatu to bring charges against a man, even more so when the man is her husband, because usually the whole family will put pressure on her to drop it. She is the one who is made to feel guilty, because she has complained, often of the most horrendous assault upon her. If the Court then fails to treat the matter seriously, the Court fails her and society at large. It must be extremely rare, if ever, that such a serious assault on a woman by a man, even her husband, does not attract an immediate term of imprisonment. Any Court taking a different course, would be acting irresponsibly and would be failing in its duty to protect the public and particularly the women of this country.

As I said before, when I first read these papers, I had in mind a sentence of 18 months, but having heard Mrs Barlow and taking into consideration the Defendant's plea of guilty, I have revised that sentence. Nevertheless, having regard to all the circumstances of this case, I take the view that there are no grounds on which the Court can depart from its usual approach in this type of case, and that the only appropriate sentence which the court can impose here is an immediate term of imprisonment. Further more, in all the circumstances of this case, the least sentence that I am able to pass on this defendant having taken everything that I have heard said by Mrs Barlow and his Senior Officer, who gave a glowing reference of his ability as a mechanic into consideration, is a term of 9 months' imprisonment.

Because he has already spent 6 days in custody, his sentence will begin as from the 10 September. I want this to be a clear message to him and to other men in this country, that the courts will not tolerate any form of violence, even less so unprovoked violence against defenceless women.

The defendant has certain savings, I am told at 20,000 vt. I want to know where the savings are, in which bank, as I propose to award the totality of those savings to his wife as compensation for this violent and degrading assault on her at her place of work, and for having scarred her for life.

Dated this 16th day of September 1994


CHARLES VAUDIN d'IMECOURT
Chief Justice