

PUBLIC PROSECUTOR

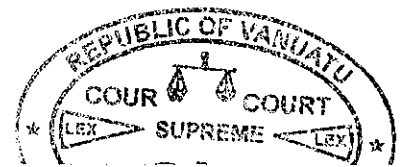
V

JACOB PETER

Sentence: ***2 August, 2013***
Before: ***Justice Robert Spear***
Appearances: ***Ken Massing for the Public Prosecutor***
 Henzler Vira for the Defendant

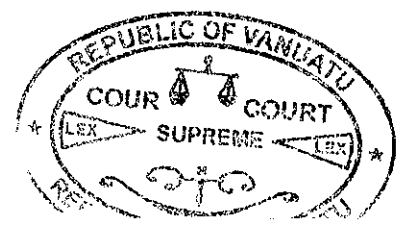
SENTENCE

1. Jacob Peter, you are for sentence today on two representative charges of committing incest. That is an offence under section 95(1)(a) of the Penal Code and carries with it a maximum penalty of 10 years imprisonment.
2. You have two daughters who are now respectively 20 and 21 years of age. They lived with you at your home in your village on Ambrym.
3. The older daughter M was 13 or 14 years of age when you started having sexual intercourse with her. This occurred while your wife was still alive and the sex happened regularly over that two year period when the complainant was between 13 and 15 years of age. She fell pregnant to you and she has a child to you. There was one further occasion in 2012 when you had sexual intercourse with this daughter.
4. The summary of facts presented by the prosecution suggests that there was violence which accompanied the sexual offending. You take issue with that. In particular, you say that you never threatened M with a knife. The prosecution does not wish to take issue with your denial as to the use of the

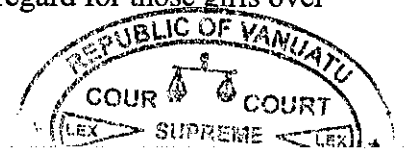


knife. You will accordingly be sentenced as if that particular aspect of the offending presented by the summary of facts did not occur.

5. Your younger daughter S states that you started having sexual intercourse with her when she was about 17 years of age and it continued regularly right through until she was 20; that is, through to August 2012. She stayed with you in your bed. She says that you had sex with her regularly as if she was your wife. She also reports that sexual intercourse occurred because you threatened to kill her if she resisted. You denied that you uttered such threats. Again, the prosecutor has indicated that the prosecution does not wish to challenge your denial and you will be accordingly sentenced as if those threats were not made.
6. In all other respects, you accept the summary of facts.
7. There is a very good reason why there is a crime of incest. It is simply wrong for anyone within a family to have sex with another family member outside the relationship of husband and wife. It upsets the family dynamics. It can destroy families; and often does. It can result in birth effects through inbreeding. There are so many excellent reasons why this should not happen. The seriousness of the offending is reflected in the maximum penalty here of 10 years' imprisonment.
8. In this case, it is clear that you used your two daughters for your own sexual purposes without any care or thought for their best welfare. I expect that in the small community you come from you have destroyed or seriously damaged their ability to find a husband and to live a normal life.
9. It is noted in the summary of facts that your younger daughter recently stated that she feels good now that you are in prison and that is a sad but realistic reflection of the harm that you have done to her and her sister. It is difficult to imagine a more serious case of incest except perhaps when the person has already offended in this way before.

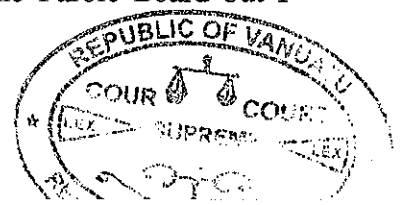


10. The prosecution argues that the Court should impose five years' imprisonment for each of the offences.
11. Mr Vira, who appears for you, acknowledges the seriousness of the offending and recognises that an appropriate sentence for the total offending might be reached from a starting point of eight years with an uplift of two years for the aggravating features.
12. In my view, the major aggravating features here are first that these two young girls have been defiled by you. Second, in relation to the older daughter the offending started when she was a young girl and she fell pregnant to you and had a child. It was regular offending over that period of time and indeed repeated in 2012. For the younger daughter over a period of some three years, when she should have been out enjoying herself as a teenager, you used her as if she was your wife, had her sleep in your bed and had sex with her regularly.
13. This is appalling conduct on the part of a father because instead of providing a home for these girls where they could feel safe and from where they could launch their lives, you treated them with the upmost contempt and as if they had no rights except as you defined them. This is offending that requires a severe sanction. In my view, these aggravating features require the Court to adopt an offending point with aggravating features of 10 years' imprisonment.
14. I note that you are 54 years of age, that you are the chief of your village and that you have some skills which will be lost to your community. Also, you are a first offender. I have to say, however, that the fact that you committed these offences back in 2004 and 2005 with your older daughter cuts dramatically across any suggestion that you are a first offender. It is more that you have not been dealt with by the Courts for your offending which you accept has occurred over the last 9 years.
15. You expressed your remorse for what has happened but I have to say that I have some difficulty with that as well. You had no regard for those girls over



a period of some nine years and it is difficult to see now how you can so quickly change your attitude. I suspect that you are more concerned with the plight in which you now find yourself and because you are about to be sentenced to a lengthy term of imprisonment.

16. Be that as it may, you do appear contrite. You have made a contribution to the community. You have no previous convictions. You would be prepared to attend a custom reconciliation ceremony if the victims of your offending ever agreed to it which appears unlikely. For those matters, I will reduce the sentence by 18 months.
17. You pleaded guilty to these two charges at what might be considered the first reasonable opportunity. You originally faced charges of committing sexual intercourse without consent with incest as a backup charge. For the reasons set out in the notes made for the hearing on 12 June 2013, the prosecution was prepared to accept pleas to incest and to give away the sexual intercourse without consent. You would most certainly have received a much longer sentence if you had been convicted of sexual intercourse without consent.
18. I allow you a full one third of the sentence that would otherwise have been imposed on you but for your guilty pleas. That leaves me with a sentence of 5 years and 8 months imprisonment. In my view that is an appropriate sentence for someone who has behaved so despicably with his daughters.
19. You are sentenced to 5 years' 8 months' imprisonment. That sentence is to be deemed to have commenced on 17 December 2012 when you were taken in to custody.
20. I ask that the Parole Board, when considering parole in due course, serious consideration is given to a condition that you not be allowed to return to your home village while on parole in the event that either of your daughters resides there or reside in the vicinity. Furthermore, that you be prohibited from having any contact with either of your daughters who were the complainants in this case. However that is a matter entirely for the Parole Board but I make the request that notwithstanding.



21. You have 14 days to appeal this sentence if you do not accept it.

BY THE COURT

A handwritten signature in black ink, appearing to be 'M. S. S.', written over the left side of the court seal.