

**IN THE SUPREME COURT OF THE
REPUBLIC OF VANUATU – Port Vila**
(Criminal Jurisdiction)

Criminal Case No. 25/873 SC/CRML

BETWEEN: PUBLIC PROSECUTOR
Port Vila

State

AND: IAS KATAINA
Port Vila

Defendant

Date of plea: 20 May 2025
Before: Justice B. Kanas Joshua
Counsels: Ms S. Langon, for the State
Mr F. Tasso, for the defendant

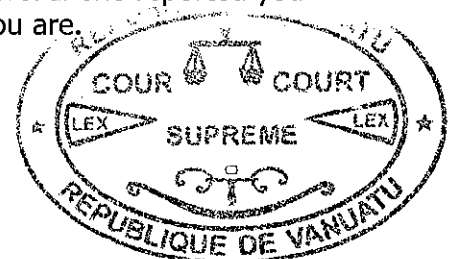
SENTENCE

Introduction

1. Mr Ias Kataina, you appear today for sentence of the following charges you pleaded guilty to, on 20 May 2025:
 - a. Count 1 – Threats to kill, contrary to Section 115 of the Penal Code Act (CAP 135); and
 - b. Count 2 – Domestic violence, contrary to Section 4(1)(g) of the Family Protection Act No. 28 of 2008; and
 - c. Count 3 – Domestic violence, contrary to Section 4(1)(a) and Section 10(1) of the Family Protection Act No. 28 of 2008.
2. The maximum sentence for the threats to kill is 15 years imprisonment, and the maximum sentence for domestic violence is 5 years imprisonment or a fine not exceeding VT100,000 or both.

Facts

3. You were cautioned on 23 January 2025, and admitted to the following facts:
 - a. Sometimes between 2023 and 2025, on Efate, you did not agree with your de facto partner (first complainant) when she told you she wanted to find another bus driver. You told her that you will be the only person driving their bus. When you went out to service, you would return home drunk and get angry with your partner when she asked for the key, as you refused to give it to her. So the first complainant asked you to leave the house but you would threaten her that if you leave the house you will burn the house and bus. You also threatened the first complainant that you would kill her if you saw her anywhere. If she reported you to the police you will come out, and they will know who you are.



- b. On 21 January 2025, around 10:00pm at night, you returned home and was angry with the first complainant when she asked you about the money you earned from bus service. The argument began when the complainant's son (second complainant) asked you about a money you earned, in dollars. You were supposed to change the money into vatu but you got angry. On their way to Bukura area that day(to look for crabs), you told the complainants that "*evri taem yutufala totktok. Tede bae mi kilim ded yutufala. Fasin blong foreigner ya yutufala stap go long polis, yu no gat kastom.*"¹ You then got out of the bus and told the second complainant to get out. You punched and kicked the second complainant. You then picked up a stone and wanted to throw it towards the second complainant but you were intercepted by the first complainant. You then threatened the second complainant that you would have killed him if it had not been for the first complainant intercepting. You all then got in the bus and returned home. On the way, you continued to threaten the complainants. The first complainant was afraid of your threats, so she tried to calm you down.
- c. On 22 January 2025, you continued to threaten the second complainant to kill him. You told him not to get into the bus and you continued to insist forcefully, to the first complainant, that the bus belonged to you.
- d. The first complainant then reported to the police.

Sentencing purposes/principles

4. You must be held responsible for your actions so others who also behave this way can see that this is against the law which has serious consequences, and stop their actions, as it destroys the family unit. This sentence should help you to rehabilitate, and must be generally consistent.

Approach to sentence

5. The sentence approach taken is in two steps, as in *Jimmy Philip v. Public Prosecutor*², which applied *Moses v. R*³.

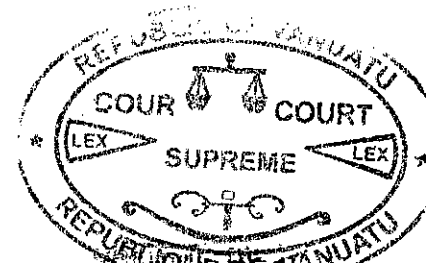
Step 1

6. The first step is to set a starting point. Reference is made to the aggravating and mitigating factors of the offending and the maximum penalty of the offence. The aggravating factors here are:
 - a. Unprovoked and surprise act towards the second complainant; and
 - b. The defendant showed a complete disrespect and disregard for life of the complainants and no reason for his continuous threats to kill them;
 - c. The pain and suffering caused to the second complainant;
 - d. A breach of trust (between the first complainant, who was the defendant's de facto partner, and the second defendant, who is the defendant's stepson);

¹ Translation: "Both of you talk endlessly. Today I'm going to kill you both. You always go to the police. That's the foreigner's way. You two don't have custom."

² [2020] VUCA 40.

³ [2020] NZCA 296.



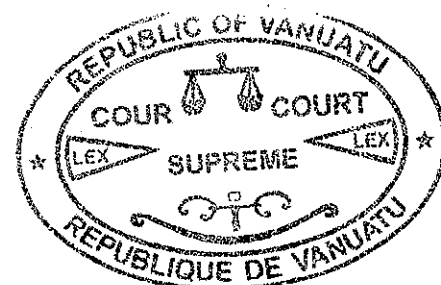
- e. The defendant had a stone in his hand to throw at the second complainant, but was intervened by the first complainant;
 - f. The repetitive nature of the offending when threats were made to the complainants;
 - g. The fear caused on the complainants for their life.
7. There are no mitigating factors of the offending.
 8. Prosecution cited three cases as guideline cases for starting points. In the case of **PP v. Konpikon⁴** where the court imposed a starting point of 4 years imprisonment for threats to kill, and 3 years imprisonment for domestic violence. The end sentence was 2 years 8 months for threats to kill and 1 year and 11 months for domestic violence, to run concurrently. In that case, the defendant had assaulted his de facto partner and threatened to kill her and was charged for the same offences. In the second case of **PP v. Lu⁵**, the defendant was charged for threats to kill, intentional assault, and domestic violence. A concurrent sentence of 5 years imprisonment was imposed, with an end sentence of 2 years imprisonment. The defendant in this case had threatened the complainant, who his de facto partner, to shoot her and her family after the complainant baked some burned bread. In another incident the defendant threatened to shoot the complainant after the complainant got upset with him for breaking her plants to give to some individuals. In the third case of **PP v. Tula⁶**, the defendant was charged with threats to kill and domestic violence. The court imposed a starting point of 5 years 2 weeks with an end sentence of 2 years 8 months 2 weeks for threats to kill. For domestic violence the court imposed 2 years imprisonment. In this case, the defendant assaulted the complainant, who is his de facto partner, by slapping her when she tried to help him to bed while he was drunk. The complainant then ran and hid in the bushes with their 5-year-old son and the defendant went searching for them with a machete. He did not find them so instead damaged their belongings and set fire to the house which was intercepted by their neighbours.
 9. Prosecution submitted a starting point of 3-5 years imprisonment for threats to kill, and 2-3 years imprisonment for domestic violence to be served concurrently.
 10. Defence counsel cited the case of **PP v. Malserake⁷** as their guide to a starting point. In that case, the defendant was charged with intentional assault, threats to kill and domestic violence. The court adopted a starting point of 1 year 8 months imprisonment on a global concurrent basis. The end sentence imposed was 12 months imprisonment for all the charges to be served concurrently. Compared to *Malserake*, the defence counsel submitted that the current case warrants a lower starting point.
 11. Defence submitted that 12 months imprisonment as an appropriate global starting point.

⁴ [2022] VUSC 96.

⁵ [2023] VUSC 191.

⁶ [2023] VUSC 161.

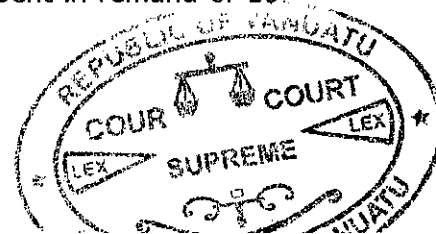
⁷ Criminal Case No. 21/3131 SC/CRML.



12. I adopt a starting point of 3 years imprisonment for threats to kill, and 2 years imprisonment for domestic violence. Your threats were not just words, they were also actioned which added more fear to the complainants. In addition, you actioned your words by assaulting the son of your de facto partner. As a partner and father figure for your family, you did not perform your duty to care for your family.
13. These sentences shall be served concurrently and any deductions to be made in Step 2 will be made to 3 years for all counts.

Step 2

14. The second step is to make the appropriate deductions for personal factors. Prosecution submitted that the offender is a first time offender and has no previous convictions. It was also submitted that they will respond orally to any matters raised by the defendant on sentence. The guilty plea was acknowledged by prosecution and it was accepted that the defendant is entitled to a discount. It was also pointed out that the defendant has been in remand since 23 January 2025 to date.
15. The mitigating factors submitted by defence were:
- Guilty plea was entered at the first available opportunity.
 - Pre-custodial sentence; the defendant has been in remand since 23 January 2025, spending a total of 5 months 11 days. This is an effective sentence of 10 months 22 days.
 - First time offender; the defendant has had a clean past record.
 - Reconciliation; although the defendant has not performed any custom reconciliation to the victims, he is willing to perform one if the court orders him to do so.
 - Remorseful; in the pre-sentence report the defendant was in tears upon recalling the incident that took place.
16. It was submitted by defence counsel that the defendant be entitled to 33% discount for his guilty plea. In addition, his time spent in remand which is an effective sentence of 10 months 22 days should also be considered by the court, with his clean past record. These factors were also acknowledged by the prosecution.
17. Deductions must be made accordingly. I give a 33% discount for the guilty plea entered which brings the sentence to 2 years imprisonment or 24 months.
18. The defendant's character was not impressive. He did not wish to involve his chief and families in the report. This raises some concern on his character. He was separated from his first wife and two children and moved in with the complainant. This would be a reason why he did not want to involve his chief and families as his past record was not entirely a good one. In the pre-sentence report it was stated that the defendant was ambitious to support his children with good education, however, the complainant stated the defendant never helped her with house chores and she found him to be a disrespectful partner.
19. For the other factors, I give a deduction of 2 months. The time spent in remand of 10 months and 22 days must also be deducted.



End Sentence

- 20. You are sentenced to 22 months imprisonment. In deducting the time spent in remand, it brings the sentence to 11 months 8 days imprisonment.
- 21. As a 49-year-old man, you are at the age where you need to settle and start building safer family environment for your family members. Violence and threats are never the answer. You are a first-time offender and you are remorseful for your actions. You have learnt your lesson. For these reasons, I am suspending your sentence, under Section 57 of the Penal Code Act CAP 135, for 12 months. If you reoffend within the 12 months, you will be arrested and this sentence will be activated, in addition to any other penalty imposed for the further offending.
- 22. To assist with rehabilitation, I order 40 hours of community work and you must attend the Niufala Rod Program or its equivalent, to help you be accountable for your actions.
- 23. You are also ordered to perform a custom reconciliation to the first and second complainants.
- 24. You have 14 days to appeal, if you are unsatisfied.

Dated at Port Vila on this 2nd day of July 2025

BY THE COURT

