IN THE SUPREME COURT OF NAURU
AT YAREN
CRIMINAL JURISDICTION

Criminal Case No 5 of 2021

BETWEEN

REPUBLIC

AND

ZAK BURAMEN Defendant

Before : Fatiaki CJ.

Dates of Hearing : 25 May, 2021 ; 9, 23 & 25 June 2021 , and 20 July , 2021
Date of Sentence : 25 August, 2021

CITATION : Republic v Zak Buramen

CATCHWORDS: *"Social media" ; "Facebook-Messenger" ; "Rape" ; "Defilement" ; "Pre-Sentence Report" ; "Aggravating & Mitigating factors" ; "guilty plea" ; "Statutory guidelines" ; Applicable maximum sentence" ; "3-step approach" ; "starting point" ;*

LEGISLATION : ss. 105 , 116 & 126 Crimes Act 2016 ; ss. 212 & 347 Criminal Code 1899 ; s. 15 Cybercrime Act 2015; ss. 102 , 277 to 280 Crimes Act ; Article 10(4) Constitution ; s. 46(2) Correction Act 2009.

CASES REFERRED TO : R v Millberry , Morgan and Lackenby [2003] 2 All ER 939 ; R v Billam [1986] 1 All ER 985 ; R v AM [2010] NZCA 114 ; EG v R [2015] NSWCCA 21 ; R v Roberts [1982] 1 All ER 609 ; R v Gadeanang [2015] NRSC 16 ; R v Gadeanang [2015] NRSC 14 ; R v Aku and Ors [2018] NRSC 5; R v Tannang [2019] NRSC 25 ; R v Amwano [2020] NRSC 28 ; R v AB [2016] NRSC 29.

APPEARANCES:

Counsel for the Republic : R.Talasasa (DPP)
Counsel for the Defendant : A. Lekenaua

SENTENCE

INTRODUCTION

1. This case is reflective of modern day society where children own or have unrestricted use of mobile phones and uncontrolled access to the internet. It also highlights the darker side of social-media where the defendant and the complainant ("AD") first met and became acquainted on "*Facebook Messenger"* in mid-Feb 2020.

INFORMATION

2. On 1 April 2021 (almost a year later) the DPP filed an Information charging the defendant with two (2) offences , Rape of Child under 16 years (Count 1) and Indecent Acts in relation to a Child under 16 years (Count 2).

3. If I may say so , it is unfortunate that with the enactment of a Crimes Act for Nauru in 2016, the draftsperson saw fit to adopt the term *Rape* in the description of the offence under s.116 where under s.126, *"consent"* is clearly stated to be "…*not a defence"*. I say unfortunate because *Rape* is a *"term of art"* that has acquired a well understood even popular meaning, as the intentional act of having sexual intercourse with a woman or girl without her consent irrespective of her age.

4. This meaning is reinforced by the provisions of s105 which defines the offence of Rape in Nauru as "(a) *defendant (*having*) sexual intercourse with another person* (who) *does not consent to sexual intercourse with the defendant.."* It is also exemplified by the distinction between the offence of Rape and Defilement in the now repealed Criminal Code 1899 (***cf*** : ss. 212 and 347). In my view , the distinction should have been maintained given the all encompassing definition of what constitutes *"sexual intercourse" , "oral sex" ,* and *"self-penetration".*

5. Before leaving the charges it may also be said that this case shows that there may be a need to include an offence of *"grooming"* in the Crimes Act. I am not unaware that the Cybercrimes Act 2015 has an offence of Solicitation of Children but , in the absence of a definition of *"communication technology"* , or the inclusion of a *"device"* as a means to commit the offence , prosecution of the offence is unlikely to occur or be successful.

PLEAS

6. Be that as it may , on 14 April 2021 the defendant , was arraigned and pleaded *"guilty"* to both Counts which allegedly occurred *"on an unknown date between 16 Feb 2020* and *14 April 2020".*

7. The case was then adjourned to allow Counsels to agree the facts on which the defendant's pleas were tendered and on which sentence would be assessed should the defendant be convicted. This process extended for over two (2) months and resulted in the defendant

changing his plea on Count 2 and the DPP filing a "*nolle prosequi"* in respect of Count 2, leaving the case to proceed on the defendant's guilty plea to Count 1 only.

AGREED FACTS

8. On 25 June 2021 an Agreed Summary of Facts with slight amendments to paras 13 & 14 agreed to by the DPP , was filed. It reads as follows :

"1. The Complainant (Victim) in this case is referred to in the Information as "AD" ;

2. The Complainant was born on 16th February 2008 , in Nauru ; (ie she would have been twelve (12) years of age at the time of the offence).

3. The Complainant was a student at the Nauru College at the time of the offence ;

4. The Complainant is from Yaren District whereas the accused is from Anetan District;

5. The Defendant in this case is Zak Buramen. He was born on 29th August 1995 ; (he would have been twenty-five (25) years of age at the time of the offence).

6. AD first contacted the defendant via facebook ;

7. AD messaged the defendant 'Hi' and they begin their chat from there on ;

8. Afterwards the Defendant and Complainant started chatting 'online' ;

9. On a particular occasion , it was in the morning , around 8am or 9am. The Complainant was travelling in the school bus, on her way to school ;

10. The Defendant and the Complainant had talked the night before to meet at the Capelle Minimart at Denig District. On her way to school , she called on her phone to let the Defendant know that she was at the Capelle Minimart waiting for him. The Defendant was getting ready to go to work that morning ;

11. When the bus reached the school, the Complainant got off the bus and walked to the Capelle Minimart. She did not go into school.

12. The Defendant and the complainant had already discussed and agreed to meet at the uphill behind the store. The Complainant arrived earlier at the place.

13. There they talked for a while and the defendant asked the complainant to have sex with him but she refused. He touched her body and she agreed"

14. The Complainant and the accused agreed to have sexual intercourse. The accused penetrated the complainant's vagina until he reached ejaculation."

15. Subsequently, the Defendant was interviewed by police and charged for the offence of Rape of a child under 16 years.

16. The incident occurred between 16th February 2020 and 4th April 2020."

9. The agreed facts left much to be desired in the duplicity and over-lapping of agreed facts 9, 10, 11, & 12 and in its failure to properly include and refer to undisputed matters in the

depositions including the contents of the defendant's record of police interview and the complainant's medical report. Nor is there any explanation of why charges weren't laid until a year after the incident had occurred especially as there is no suggestion or evidence of *"recent complaint".*

10. The agreed facts were read and translated into Nauruan and the defendant confirmed them as correct. The Court then accepted the defendant's guilty plea and entered a conviction against the defendant for the offence of Rape of a Child under 16 years old contrary to section 116(1)(a)(b) of the Crimes Act 2016. Upon his conviction , the Court ordered a pre-sentence report on the defendant.

PRE-SENTENCE REPORT

11. On 8 July 2021 a Pre-Sentence Report was filed by the Acting Chief Probation Officer from which are extracted the following personal details of the defendant :

- Zak Buramen is 25 years old ;
- He resides in Anetan District with his parents and two (2) elder sisters ;
- He is the youngest son and has two (2) elder brothers who are married with families of their own living elsewhere ;
- The defendant completed his secondary education at Nauru Secondary School and has done a USP course in English ;
- His nuclear and extended family rely on him for financial support and occasional baby-sitting for a sister who is a working "*solo-parent".* He assists his elderly grandmother with grocery shopping and running errands ;
- The defendant has been gainfully employed in various commercial organisations since leaving school and includes a four (4) month stint at Hamilton Island Resort in Queensland under the Pacific Labour Scheme before returning to Nauru and being employed in the Ministry of Health at the RON Hospital as a nurse orderly.
- The defendant was raised and is a practising Catholic actively involved in leading youth group activities. He is also highly regarded in the Anetan Community and is active in community voluntary projects *".....given his kind and friendly character...."* and *"....his social attributes of being friendly , caring* and *giving towards others."*

12. The Probation officer writes about the defendant :

"..... (he) *conveyed .... remorse for his actions and with regret. I believe that if he were to be given another chance it will be highly unlikely for him to re-offend."*

13. The Court also received helpful sentencing submissions from the DPP on 12 and 20 July 2021 and from Defence Counsel on 20 July 2021. Unfortunately the Victim Impact Statement (VIS) was not available until 21 July 2021 and so both counsels were invited to file supplementary submissions. These latter submissions were received on 21 July 2021 and on 9 August, 2021 from Defence Counsel.

14. The DPP highlights the detrimental effects of the incident on the victim's emotional and mental health , whereas , defence counsel criticizes the *"VIS"* as exaggerated and unreliable and should be viewed with some cautious *"objectivity"* and reservation.

15. I have noted counsels opposing submissions concerning the *"VIS"* and wish to add the following observation for the improvement of the presentation and quality of such *"VIS"* in future. In the absence of skilled specialists and trained child professionals , there should be a set of standard simple questions included under each sub-heading with provision to record the victim's response(s). For instance , despite the victim's medical report disclosing: *"no physical trauma/injury and normal physical findings"* and the victim confirming she was *"not injured"* , nevertheless , the sub-heading *"Physical Injuries"* contains several statements that properly belong under the later *"Emotional"* and *"Psychological"* sub-headings. Greater care should be taken.

16. For present purposes , however , I note the victim continues to possess and enjoy the use of her mobile phone and no attempt his been made in the statement to explain the fifteen (15) month delay between the incident in Feb/April 2020 and the preparation of the *"VIS"* in July 2021. I note also there is no space for the relevant *"conviction date"* whereas , there is an irrelevant entry for the *"sentencing date".*

17. On 20 July, 2021 the Court heard oral submissions from both counsels in clarification of their written submissions.

PROSECUTION SUBMISSIONS

18. In his written submissions the DPP identified six (6) aggravating features as follows :

    (i) The first and foremost as provided by law is that the victim was under the age of thirteen (13) years ;

    (ii) Other factors that should be considered include the age disparity between the prisoner and the victim ;

    (iii) The offender being older , had breached the trust of that of an adult to a child , even if not related ;

    (iv) It was well calculated act , on that particular day/morning ;

    (v) The prisoner took advantage of the victim's vulnerability (a girl of tender age) and his relationship to her ;

    (vi) The victim still at school."

19. The authority advanced in support of feature (iii) *"breach of trust"* are the provisions of s.5 of the Child Protection and Welfare Act 2016 which sets out *"Guiding Principles"* when dealing with a child and DPP submits that they extend to all adult members of society. Whilst the principles cannot be doubted , their application , in my view , is limited to persons *"…exercising any power, duty or function related to the protection of a child or the promotion of his welfare…"* and *"when interpreting or applying any provision of the Act".*

20. In sentencing the adult offender in this case , the Court is not *"interpreting or applying"* the provisions of the Act. Indeed , the particular provision referring to *"Court Proceedings"* (s.55) no-where provides that the best interests of the child victim must be a primary or paramount consideration in the sentencing of the adult offender or that , in any and every interaction (for want of a neutral term) between a child and an adult , there shall be imprinted an element of "*trust"*.

21. DPP clarified that the victim's age was an "*aggravating factor".* He also submitted that the victim's "*consent"* to intercourse was not relevant to sentence since a child has *"no capacity to consent".* Likewise , he dismissed the defendant's "*character references"* as non-reflective of the defendant who committed the offence. Finally , the DPP clarified that the *"breach of trust"* involved in the offence is based on any adult's expected duty and moral responsibility whether related or not , to ensure the safety and welfare of any child who must be considered vulnerable.

22. As for feature (i) , namely , the age of the victim , that is an element or ingredient of the offence charged and cannot be an aggravating factor in the sense of making the offence worse than it already is. It is relevant however , to the applicable maximum penalty. Defence counsel also accepts , that the *"age difference of twelve (12) years"* between the defendant and the complainant is an aggravating factor. Given the particular nature of the penetration involved (**ie.** penile/vagina), the Court also agrees with the aggravating nature of feature (ii) namely the *"age difference"* which reflects emotional maturity and physical development.

23. As for aggravating feature (iii) , *"breach of trust"* , I disagree with the submission that a relationship of *"trust"* or abuse exists in this case where the defendant and the complainant were facebook friends and intercourse was consensual and occurred sometime after their first meeting.

24. As for feature (iv) the existence of *"planning"* , the submission blithely ignores the mutuality in the contents of agreed facts (10), (11), & (12) and is accordingly rejected.

25. In feature (v) the *"victims vulnerability",* whilst the Court accepts that the defendant was the adult in the relationship , this is not a case of an opportunistic *"stranger rape"* nor was the victim physically injured in the consensual encounter which the defendant immediately ended when told to by the complainant.

26. Whilst accepting that a discount of ***"12 to 20%"*** is appropriate where the defendant pleads guilty , nevertheless , DPP submits that this case *"...must be dealt with at the highest level* … (but) … *below the sentence of an offender who has been convicted after a trial."*

27. DPP observed that the maximum sentence for the offence is *"either life imprisonment or 25 years imprisonment"* depending on the proven age of the victim at the time of the offence or if , *"aggravating circumstances apply"* as defined in s.102 of the Crimes Act 2016. It may be noted that the two (2) limbs are disjunctive (*"or"*) and should be considered and treated as separate unrelated sentencing considerations. Furthermore , given that the existence or

absence of a limb determines the relevant maximum penalty , the applicable limb must be established by the prosecution either by evidence or agreement.

28. In this latter regard the first limb is agreed as applicable in this case , and so the relevant maximum penalty is : *"life imprisonment."*

29. Finally I disagree that the consensual nature of the relationship between the defendant and the complainant is *"irrelevant"* in sentencing the defendant. In my view , that feature is part and parcel of *"the nature and circumstances of the offence"* which by section 279(2)(a) of the Crimes Act 2016 *"...the Court must take into account".*

30. After submissions were completed DPP provided to the Court , a copy of the second reading speech in Parliament of the Hon. Minister for Justice in introducing the Crimes (Amendment) No.2 Bill 2020 which significantly raised the sentencing levels for all sexual offences under the Crimes Act. That occurred on 22 October 2020 and therefore has no bearing on the present offence which was committed in February/April 2020. [***see*** : Article 10(4) of the Constitution].

DEFENCE SUBMISSIONS

31. Defence Counsel for her part , asked the Court to favourably consider the defendant's *"character references"* which show that the offence is *"out of character"*. The defendant is also remorseful and asks for leniency. She identified the following mitigating factors.

- The defendant is a first time offender ;
- The defendant pleaded guilty at the first opportunity thus saving the Court's time and more importantly , avoids any need for the victim to testify about the incident in Court , and Counsel seeks a full discount of ***"25 to 30%"*** ;
- The defendant co-operated fully with police investigations and voluntarily confessed to the crime ;
- The circumstances of the offending was not exploitative rather , it was the culmination of a tender caring relationship built-up over a period of time ;
- Sexual intercourse was consensual and is a relevant consideration in the sentencing of the defendant albeit that *"consent"* is not an element of the offence ;
- The defendant has been remanded since 05 March 2021 which equates to an effective sentence of 9 months imprisonment (without remission). [***see*** : s46(2) Correction Service Act 2009] ;
- The defendant has used his time in remand , to reflect on his life and his Christian faith and vows that he will never commit another offence again.

32. Defence counsel in her submissions also stresses the peculiar distinguishing circumstances of the present case in the following extracts :

(*at para 14*) :

"This is not a relationship where the adult offender took advantage of the child , this was a genuine care for one another. Zak was sincere about the complainant , and he cared about her."

and later (*at para 27*) *:*

"…The accused and the complainant started their relationship via social media and then the relationship over time appears to be sincere…unlike other cases….. the facts of this case is unique in that both the accused and complainant continued to engage in relationships as agreed. Distinction with previous case…."
(ie. no alcohol ; no blood or family relationship ; no position of trust ; offence not repeated.)

33. Counsel urges the adoption of a "*starting point"* of four (4) years in this case and counsel cites in support , the *"guideline"* decision of R v Millberry ; R v Morgan ; R v Lachenby [2003] 2 All ER 939 for the proposition (at para 14) :

"where …… the victim has consented to sexual familiarity with the defendant on the occasion in question , but has said 'no' to sexual intercourse at the last moment , the offender's culpability for rape is somewhat less than it would have been if he had intended to rape the victim from the outset".

34. In that case the Court of Criminal Appeal considered three (3) *"dimensions"* in assessing the gravity of an individual offence of rape as follows (at para 8) :

"….the degree of harm to the victim , the second is the level of culpability of the offender ; and the third is the level of risk proposed (sic) *by the offender to society".*

and later :

"….while rape will always be a most serious offence , its gravity will depend very much upon the circumstances of the particular case and it will always be necessary to an individual case as a whole…."

ASSESSMENT and SENTENCE

35. In determining the sentence in this case I propose to adopt a three (3) step approach or methodology which begins in Step 1 with setting a *"starting point"* bearing in mind the maximum penalty and reflecting the intrinsic seriousness of the offence and the culpability of the actual offending **ie**. The specific actions of the offender and their effect on the victim viewed within the context of the specific charge.

36. Step (2) involves the adjustment of the *"starting point"* up or down to reflect the aggravating and mitigating factors personal to the offender such as any previous convictions for similar offences versus good character and remorse , to arrive at a provisional sentence which is then further adjusted in Step (3) for a *"guilty plea"* up to a maximum of one third (1/3) depending on when the plea is entered in the proceedings and finally a further discrete discount should be given for *"assistance to the authorities"* [***see*** : s.279(2)(i) Crimes Act].

37. Before undertaking the *"three (3) steps"* exercise I remind myself of the provisions of s.277, 278, 279 and 280 of the Crimes Act 2016 which provides the Courts with assistance in the sentencing of offenders. In particular s.278 enumerates seven (7) *"purposes of sentencing"* including punishing the offender ; deterring other people from committing similar offences; promoting rehabilitation of the offender ; and protecting the community.

38. In section 279(1) the Court is directed to *"…impose a sentence….. that is of a severity appropriate in all the circumstances"* and subsection (2) sets out sixteen (16) *"matters"* that the Court *"…must take into account… when relevant and known to the Court"* including in this particular case:

"(a) the nature and circumstances of the offence
(d) any injury , loss or damage resulting from the offence ;
(g) any victim impact statement available to the Court ;
(i) if the person pleaded guilty to the charge…that fact ;
(j) the degree of co-operation with any investigation of the offence ;
(m) the character , antecedents , age , means and the physical or mental condition of the offender ; and
(n) prospect of rehabilitation ; "

39. Lastly section 280 permits a court to impose a sentence of imprisonment *"**only if**"* :

(i) the offender has shown a tendency to violence toward other people ; or
(ii) the offender is likely to commit a serious offence if allowed to go at large ; or
(iii) the offender has a previous conviction for an offence punishable by imprisonment ; or
(iv) any other sentence would be inappropriate ; or
(v) the protection of the community requires it.

40. In light of the above , I am satisfied that *"…general deterrence , denunciation and the protection of the community are principles of sentencing that are relevant to cases involving child sexual abuse. The concern of the Court is to send a message to those who sexually abuse children intentionally that their actions will not be tolerated and they will receive significant punishment."* (*per* Hoeben CJ in EG v R [2015] NSWCCA 21 at 42.)

41. A sentence of imprisonment is inevitable in this case *"…. to mark the gravity of the offence, to emphasize public disapproval , to serve as a warning to others , to punish the offender and to protect women (*and girls*)." per* Lord Lane CJ in R v Roberts [1982] 1 All ER 609.

42. With those principles in mind , I turn to consider the appropriate *"starting point"* in this case. In the absence of a guideline judgment from the Court of Appeal and with a view to maintaining some consistency in the sentences imposed for child rape , I have considered some local cases including : Republic v Gadeanang [2015] NRSC 16 ; Republic v Gadeanang [2015] NRSC 14 ; Republic v Aku [2018] NRSC 5 ; Republic v Tannang [2019] NRSC 25 and Republic v Amwano [2020] NRSC 28.

43. From the foregoing it appears that the *"starting point"* for child rape falls within a range of 6 years to 16 years however , in Republic v AB [2016] NRSC 29 Crulci A/CJ after referring

to the oft-cited guideline judgment of Lord Lane CJ in R v Billam [1986] 1 All ER 985 where his lordship identified *"three starting points"* for rape sentencing as : *"5 years"* , *"8 years" and "15 years"* , said (at para 38) :

"The starting point in this jurisdiction for rape of children is 10 years".

44. I was also referred by defence counsel to the most recent rape guideline of the English Court of Criminal Appeal in R v Millberry (*op.cit*) presided over by Lord Woolf CJ where the Court in agreeing with the Sentencing Advisory Panel affirmed :

"...that there is no substantial departure from the general approach laid down in R v Billam" .

45. Furthermore , in re-sentencing Millberry the Court of Appeal criticised the trial judge's sentencing remarks that as the victim was a friend of the offender's brother , the offender *"....*(had) *betrayed the trust which is implied in such a relationship"* when the Court said (at para 65) :

"...friendship is not a factor which itself justifies the use of the eight year starting point" which latter *"starting point"* includes as a feature attracting an 8 year *"starting point"* that *"(ii) the offender is in a position of responsibility towards the victim (eg. A clergy man , a taxi driver , or a policeman)".*

46. In similar vein , the NZ Court of Appeal in R v AM [2010] NZCA 114 said (at para 50) :

"Breach of trust is ... a factor which increases the culpability of the offender. Offending within the familial relationship involves a breach of trust and offending by a parent against his or her child is particularly serious. Other relationships of trust may arise where a person has assumed some responsibility in relation to the victim for example , the neighbour who regularly babysits the child or the school sports coach."

47. It is sufficiently clear from the examples given in the above extracts , that the defendant fits into none of them. He is not in *"a position of responsibility"* or *"a person in whom the victim has placed his or her trust by virtue of his office or employment"* or that a *"familial relationship"* existed between the defendant and the complainant nor had he *"assumed some responsibility"* to the complainant. Accordingly , I reject DPP's contrary submission about *"breach of trust".*

48. I have also been assisted by R v AM (*op.cit*) where the NZ Court of Appeal issued an updated rape sentencing guideline comprised of *"sentencing bands"* within which a *"starting point"* is chosen. The Court also differentiated between offences involving rape , penile penetration of the mouth and anus and penetration involving objects, (Category I) and offences involving other forms of unlawful sexual connection such as slight digital penetration ; masturbation , kissing and other indecent assaults (Category II).

49. In this latter regard the Court said (at para 71) :

"It has to be recognized , however , that one of the difficulties in terms of an appropriate sentencing response is that sexual violation covers such a variety of circumstances and so ,

inevitably , varying degrees of seriousness. It also has to be noted that sentencing patterns have tended to be lower for digital penetration and for some forms , at least , of oral sex. The same approach is adopted in the United Kingdom where the guideline provides for lower sentences for penetration by , for example , fingers or the tongue where no physical harm is sustained by the victim".

and later (at para 75) the Court said :

"Given the wide range of offending and of culpability , we have concluded that it will prove more helpful to sentencing judges to separate out these categories".

50. The Court then set out four (4) sentencing rape bands for Category (I) : *"rape, penile, penetration of mouth and anus or violation involving objects"* as follows :

(a) Rape band 1 : 6-8 years ;
(b) Rape band 2 : 7-13 years ;
(c) Rape band 3 : 12-18 years ;
(d) Rape band 4 : 16-20 years ;

After identifying examples of actual cases that fall in each of the four rape bands, the Court then set out the three (3) sentencing bands for the less serious Category (II) : *"violation where unlawful sexual connection is the lead offence"* as follows :

(a) USC band 1 : 2-5 years ;
(b) USC band 2 : 4-10 years ;
(c) USC band 3 : 9–18 years ;

51. It is immediately obvious that the two categories are not mutually exclusive in that USC band 3 falls within rape bands 2 & 3.

52. Finally , the Court of Appeal emphasized that in considering the *"culpability of offending"* in a particular case what:

"…. is required is an evaluative exercise of judgment….. In assessing the gravity of offending the judge must , of course , do this in a fact - specific way focusing on the culpability of the offender and the effect on the victim and , as a corollary , they must not reason by stereotype or seek to turn responsibility for the offending back on the victim in terms of she asked for it or other excuses based on rape myths."

53. In the present case , I am content to adopt with a slight increase , the Billam *"starting point"* for rape committed by an adult without any aggravating or mitigating features where , *"a figure of five years should be taken as the starting point in a contested case."* I accept that the tender age of the complainant makes her *"vulnerable"* but , given the elements of the charge against the defendant , I prefer the *"age disparity of 13 years"* as the relevant aggravating factor in considering the objective seriousness of the offending and the defendant's culpability. The consensual nature of the offending and the absence of any physical harm or injury in turn decreases the intrinsic seriousness of the offending. Accordingly , I adopt a *"starting point"* of 6 years.

54. For mitigating factors including the defendant's unblemished past and good character as well as the genuine remorse and regret expressed by the defendant to the probation officer and to the Court through his counsel , I reduce the starting point by 18 months to give a provisional term of (72 −18) = 54 months which is further reduced by a third **ie.** 18 months , for the defendant's early guilty plea and meaningful assistance rendered to the police during his police interview. The end sentence is : (54 −18) = 36 months imprisonment which is ordered to commence from 5 March 2021.

55. I am confident that the defendant will serve his sentence productively and that his behaviour in prison will be exemplary. It is also hoped that on his return to society , he will be a changed man committed to his vow never to re-offend.

Dated the 25th day of August, 2021

D.V.FATIAKI
CHIEF JUSTICE