

**IN THE SUPREME COURT OF TONGA  
CRIMINAL JURISDICTION  
NUKU'ALOFA REGISTRY**

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**CR 58 of 2015**

**BETWEEN: R E X - Prosecution**

**AND: MOSESE PIUTAU - Defendant**

**CERTIFICATE OF CONVICTION AND SENTENCE**

This is to certify that Mosese Piutau, male, date of birth: 6 May 1989, was on 14 March 2016 in the Supreme Court of Tonga, **CONVICTED** upon indictment:

1. On the count of rape, contrary to section 118(1)(a) of the Criminal Offence Act [CAP 18].
2. On the count of common assault, contrary to section 112 (a) of the Criminal Offences Act [CAP 18].

On 6 May 2016, he was **SENTENCED** as follows:

[1] For the count of rape – 4 years and 6 months imprisonment. 18 months suspended on the following conditions;

1. He is not to commit any offences punishable by imprisonment for two years.
2. He is placed on probation for the first 12 months of that period of suspension;

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- a. He will live where directed.
- b. He will not drink alcohol during the 12 months period of the probation.
- c. He will, under the direction of the Probation Office and the Salvation Army, undertake a course on alcohol and drug abuse.
- d. He will also attend a course on abuse of women under the Women's Crisis Center under the direction of a Probation Officer.

[2] For the count of common assault – 9 months imprisonment to be served concurrently with to count 1.

[3] In total the defendant will serve 3 years imprisonment commencing from 14 March 2016.

**DATED: 13 MAY 2016**



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**AND: MOSESE PIUTAU - Defendant**

**BEFORE HON. JUSTICE CATO**

**SENTENCE DELIVERED ORALLY**

[1] Mosese Piutau you appear before me in relating to one count of rape and one count of assault arising out of an incident that occurred on the 30<sup>th</sup> January 2015 approximately 2am in the morning. The complainant and her friend had been out drinking alcohol and she was walking home alone along the Vuna Road to go back to her house in Sopu. When she reached the turn to go home, you were following behind her, called out to her if she wanted to have sex. The complainant said no. She started to run. You reached out and grabbed her with his hands clasped over her mouth so as to prevent her from screaming. The Complainant at this time was crying and struggling against his force but you told her to keep still or you would kill her. You then forcefully laid her down on the road with her back on the

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ground. The Complainant continued to struggle and scream, and again you threatened to kill her if she did not keep quiet. You slapped her and her mouth bled. She ran home and reported the matter to the police, after she had told her parents. She recognized you because she had seen you at sports training.

[2] The circumstance of the offending was serious. Women are entitled to walk along the streets of Tonga without being either molested, threatened with violence or be the subject of sexual offending of this kind. The main sentencing considerations in cases of this kind are protection of women and their security. Sentences must be severe to remind not only the individual offender of the serious consequence of what he had done but also to deter other like-minded people in the society. The normal starting point for offending of this kind is about five years, however I consider that your offending on that evening was aggravated by the way you in effect stopped this woman who was unwilling to engage in any kind of activity with you and told you so. You threatened this woman in no uncertain terms and then you undressed her in public and you proceeded to have your way with her and then threatened her again. This must have been a truly frightening ordeal for her.

[3] An attack upon her person at 2am in the morning, accompanied by threats to kill her if she did not cooperate. Those acts of threats particularly in the circumstance of this case to my mind increase the five years starting point to one of seven years. Women in Tonga will be protected by the courts against this kind of offending.

[4] Having said that, you have pleaded guilty at the earliest opportunity and you have indicated in your statement today on sentence that you are remorseful of what you have done. Your very early plea in this case meant that the complainant has been saved of having to go through the ordeal of having to prepare herself for trial and give evidence. The courts have said that more generous discount may be given where a woman by virtue of a timely given plea by a defendant saved the ordeal of having to give evidence. As I have said I accept your expression of remorse, and I also acknowledge that you are 27 and so far you have stayed out of trouble. However there are indications on the probation report that you have been for some time, alcohol have become a factor and has been adverse for you and I have no doubt that the night, you were affected by alcohol.

[5] In all principally because of your early guilty plea I am going to allow you 2 and half years mitigation which means the period of imprisonment imposed on you is 4 and a half years. You are a first offender, you pleaded guilty. I'm proposing to allow you 18 months suspension on the following conditions; 1. You are not to commit any offences punishable by imprisonment for two years. The other condition are these. The first 12 months of that period of suspension, you are placed on probation. You will live where directed. You will not drink alcohol during the 12 months period of your probation. You will under the direction of the Probation Office and the Salvation Army undertake a course on alcohol and drug abuse. And the final condition is that you will also attend under the direction of Probation a course on abuse of women under the Women's Crisis Center.

[6] Your sentence is backdated to the date upon which you were remanded in custody. On the second matter which is assault under section 112 (a) you are sentenced to 9 months imprisonment, and that sentence is to be concurrent with the sentence that you are serving for rape.

**Date: 6<sup>th</sup> May 2016**

