

e.f.

PUBLIC PROSECUTOR -v- JOHNA NASEP

Coram: Chief Justice, Vincent Lunabek
Counsel: Mr Leon Malantugun for Public Prosecutor
Mr Henzler Vira for the Defendant
Date of trial: 23-24 February 2010
Date of Judgment: 26 February 2010

JUDGMENT ON VERDICT

This is the verdict in this case. The Defendant, Johna Nasep is charged with two counts of sexual intercourse without consent, contrary to sections 90(a) and 91 of the Penal Code Act [CAP.135].

On 23 February 2010 at Isangel, Tanna, the Defendant pleaded not guilty to the two counts of sexual intercourse without consent as charged against him on the information dated 24 September 2009.

Before the prosecution case begins, Section 81 of the Criminal Procedure Code Act [CAP.136] was read, explained to the Defendant and the Defendant understands his right of presumption of innocence contained in that section. The trial proceeds on that basis.

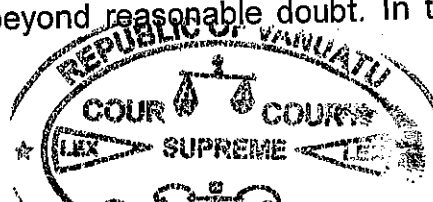
It is the prosecution case that sometime in January 2009, and between 23 July and 24 July 2009 the Defendant had sexual intercourse with the girl complainant without her consent, contrary to sections 90(a) and 91 of the Penal Code Act.

The defence concedes that sexual intercourse occurred between the Defendant and the girl complainant on the dates and locations alleged in the information of 24 September 2009.

The defence says that the girl complainant consented to have sexual intercourse with the Defendant on both January and July 2009.

The only issue in this trial is that of consent – whether the girl prosecutrix consented to have sexual intercourse with the Defendant on January and July 2009.

This is a criminal trial. The law is for the prosecution to prove each and all essential elements of the offence of sexual intercourse without consent, contrary to sections 90 and 91 of the Penal Code Act beyond reasonable doubt. In the



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present case, the prosecution must prove beyond reasonable doubt that the girl complainant did not consent to have sexual intercourse with the Defendant on January and July 2009. It is not the task of the Defendant to prove his innocence. If a reasonable doubt exists at the end of the trial, it must be interpreted in favour of the Defendant and the Defendant must be discharged and acquitted of the offences charged against him.

If at the end of the trial, I consider and assess the evidence of the prosecution and that I am satisfied that the prosecution has proved beyond reasonable doubt that the girl complainant did not consent to have sexual intercourse with the Defendant on January and July 2009, I must convict the Defendant of the two offences he was charged with in the information dated 24 September 2009.

The prosecution calls four (4) witnesses in support of the prosecution case.

The complainant girl is the first prosecution witness. She will be called complainant (C). She gave evidence that she is from South Tanna. She works in the garden.

She gave evidence to the effect that sometime in January 2009, there was a gathering and complainant and others attended the gathering at her uncle's house. Complainant (C) took some food from her uncle's house and decided to bring the food to her mother at her house. On her way to her house, she walked pass a nakamal. People started to drink kava. She said on her way to her house, Defendant Johna came out and held her T-shirt near Iasmetanis Nakamal. She described Johna held her T-Shirt on her back. He pulled on her. She was crying and called for her mother. Johna told her not to call out as people started to drink kava in the nakamal. It was about 2.00PM o'clock in the afternoon. Johna pulled her and forced her to lay on the ground. Johna forced her and made her felt on the ground. She said Johna tried to remove her skirt and panties and she was trying to put them back on. She said she told Johna "*you no karemaot ol klos bong mi mi mi daddy long you*". Johna managed to pull out her skirt and her panties. She said Johna tried to spread her legs. She closed them up. She tried to close her legs up 3 times. Then Johna managed to spread her legs and had sexual intercourse with her. She said after sexual intercourse, she saw blood on her body and she said "*mi sick smol*". The Defendant ran away after sexual intercourse and left her there. She said he told her that he would see her again on another occasion. She went back home.

She also gave evidence to the effect that on 23-24 July 2009, there was a custom dance at Eneueker Village. She and others attended the custom dance. At about 4.00AM in the morning, she walked to go and have a sleep at the house of her Apu Hamm. She said Johna came on the road. She did not look him so he held her both hands and blocked her mouth with his other hand. She said she called out her mum and dad. She said he told her not to shout if not he will make her cry. She said she was afraid. He pulled her on the other side of the road. He forced her and made her fall on the ground and he slept on top of her. He took off her panties and she said she tried to put them back and he took them off. He pulled out her skirt and panties and tried to spread her legs. She said she resisted by trying to close her legs back. She said he told her "*sipos you no openem leg blong you bae yu cry*." She said she told him "*you no no openem leg blong mi. You mi callem you daddy*".



She said Johna spread her legs, slept on top of her and had sexual intercourse with her. She said she felt her private part was painful. She said the Defendant then left her and she returned back to her Apu Hamm's house.

She gave evidence that she decided on her own to report the matter to the police because Defendant Johna Nasep is related to her and she called him "small papa".

Complainant (C) was cross-examined by the defence counsel. She confirmed she made a statement to the police. She knows Johna. He is a member of her family. Johna and her are from different villages. It was put to her and she denied that she and Johna had sexual relationship before.

She was asked about the incident of January 2009. She confirmed she brought some food from her uncle's house to her mother who stayed back at her house.

In her cross-examination, it became apparent she could not read or write. It was put to her and she confirmed again that in January 2009, she brought some food from her uncle's house to her mother at home. She maintained she did not tell lies to the Court.

It was put to her that when Johna made her fall on the ground why she did not call out. She replied Johna told her not to call out because the Nakamal was near the place they were. She accepted she listened to him and she did not call out. She said she did not call out because the Nakamal was near the place they were and people in the nakamal might hear her calling or shouting. She reiterate later on upon the Court's queries for her to clarify her answers on this point (after her re-examination by the prosecution counsel) that according to Tanna custom, it is prohibited to call out or to shout when people drink kava in a nakamal. You will be punished with a custom fine.

She was asked and she confirmed Johna spread her legs before sexual intercourse. She confirmed she did not call out.

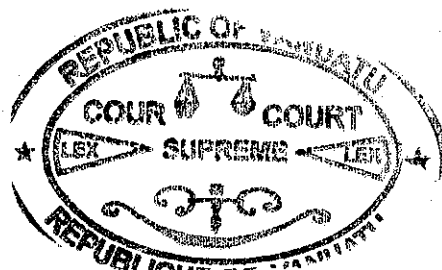
She was asked about 23-24 July 2009. She confirmed she left the custom dance about 4.00PM o'clock in the early morning. She said she walked to go to her Apu Hamm's house on her own. She denied any one saw her leaving the custom dance.

It was asked she said the Defendant had sex with her on January 2009 as she alleged but she did not lodge a complaint against him at that time.

Her family members knew about the incidents when she told them about what the Defendant did to her.

She said on the two (2) occasions, Johna had sexual intercourse without her consent, no one saw what the Defendant did to her.

She confirmed that Johna had sexual intercourse with her without her consent on January 2009 and July 2009.



Complainant (C) was re-examined. She denied she had a relationship with Johna as boyfriend because Johna is her small daddy. She re-confirmed Johna had sex with her and told her to have sex with her again on a different occasion. She said she cried. When she fell on the ground the Defendant told her not to call out because the nakamal is near. She repeats when asked that Johna spread her legs. She tried to close them up. Then he had sex with her. She said she did not tell her father and mother about the incidents because she was afraid they would assault her.

She finally confirmed that on January 2009 and July 2009, she did not consent to have sexual intercourse with the Defendant Johna Nasep.

The next prosecution witness is police officer, Julian Ben. She is from Tanna Island. She works at the CID police section on Tanna Island for 4 years. She was involved in sexual abuse cases since then.

She said on 27 July 2009, the complainant lodged a complaint against the Accused-Johna. She said the complainant said on 2 occasions Defendant Johna Nasep forced her to have sexual intercourse with him without her consent.

She described how she took the statement of the Defendant. She was in the office. She explained to the Defendant of his right. She said there is a police officer who arrested the Defendant. She was with that police officer when she took the statement of the Defendant. There were just the two of them.

She explained that before she took the Defendant's statement, she cautioned the Defendant. The Defendant admitted he forced the complainant (C) to have sexual intercourse. She said she read the statement to the Defendant, the Defendant agreed with it and signed it.

She said there was no force or pressure during the taking of statement of the Defendant. The Defendant answered to the questions asked of him by her and he signed his statement.

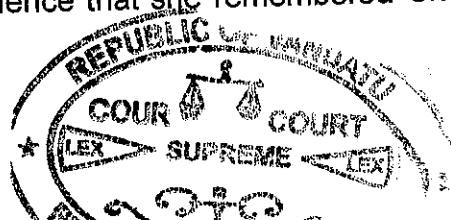
The witness was cross-examined. She was questioned about the prison house on Tanna. It was empty. She said police used it as a cell. No prisoner was detained in the cell.

The Defendant was in the cell from his arrest on 27 July 2009 to 28 July 2009 when he was questioned and released. She said she saw the Defendant was smart. She could not say if the Defendant had food after his arrest but she said she gave him a cup of tea at the time of interview on 28 July 2009.

It was put to her and she denied she told the Defendant words to the effect that if he did not admit the offences charged against him, he will be locked back into the cell.

The police officer Julian Ben was re-examined. She confirmed that no pressure was made on the Defendant during the taking of his statement at the police station on 28 July 2009 at Isangel, Tanna.

The next prosecution witness is Katani Eskar. She is a gardener. She is the mother of the complainant (C). She gave evidence that she remembered on one



occasion something happened to complainant (C). She saw complainant (C). She was scared. She said she asked her and complainant (C) told her that Defendant Johna made trouble to her. She said complainant (C) "hemi cry we hemi cry". She said complainant (C) had just told her about Johna. She went to see Dominique Eskar who is "bigfala papa" of complainant (C). She told Dominique to go and see complainant (C).

Katani Eskar was cross-examined. She said complainant (C) came to her house in the morning and told her of what Johna did to her. She was crying. It was put to her:

"Q. Hemi fraet long you?

A: Yes, hemi fraet long Johna.

Q. Hemi fraet from you faenem tufala mo bae yu wipem hem?

A. Mi no save."

It was put to her complainant (C) cried because she found out her relationship with Johna. This witness said "no, girl i talemaot."

She was re-examined. She said the Defendant was a member of their family. In custom, the Defendant could not go out with complainant (C). She confirmed complainant (C) felt bad when her small daddy had sexual intercourse with her.

Dominique Eskar is the last prosecution witness. He is from South Tanna. He is a gardener. He gave evidence he stayed with complainant (C) at lakeken village. The Defendant is from Enaker village. He said he is closely related to the Defendant. Their grand fathers are brothers. He call the Defendant brother as their fathers are brothers. Complainant (C) called the Defendant daddy.

He said also that in custom the Defendant could not have relationship with complainant (C) because they are very close relative. He remembered when the girl came and saw him at the time of the incident. He said complainant (C) looked frightened. Her mother was crying too and they informed him about what Johna did to complainant (C).

He confirmed in his cross-examination that complainant (C) and her mother told him about the incident.

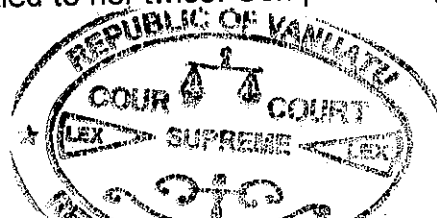
That is the end of the prosecution evidence.

Section 88 of the Criminal Procedure Code Act [CAP.136] was read and explained to the Defendant. The Defendant understands his right thereunder.

The defence case is that when the Defendant had sexual intercourse with the complainant (C) on January 2009 and on 24 July 2009 in the early morning, she consented to have sexual intercourse with him.

The Defendant himself gives evidence. He gives evidence to the following effect. He is from lanuakel village. He comes to the Court because of rape.

He gave evidence about the first incident of January 2009 at a festive celebration at the complainant (C)'s uncle's house. He said when complainant (C) went to her house, she passed through a pig fence. He whistled to her twice. Complainant (C)



stopped. She asked who are you? Defendant said "mi ia Johna". He said she did not say anything. He said he asked her for sex. He said she agreed. He said they walked to the bush on the other side of the nakamal. He said she took out her clothes. he had sex with her. He said before she went back to her house, he said complainant (C) told him: "hey bae any time you no kam luk mi. Sipos yu stap kam bae mama blong mi i save. Bae yu kam nomo taem blong lafet. Yu kam blong luk mi."

He said on the first incident, complainant (C) agreed to have sex with him. She took out her clothes. He said he did not force her to have sexual intercourse with her.

On the second occasion, there was a custom dance at lanuakel village. He said he saw complainant (C) and a woman followed an old woman (Navef) and a boy (Sam) to her house. The Defendant said he followed them with one of his brothers (Ely). Navef gave laplap to Sam. He said he pulled complainant (C)'s shirt for her to come to him. Sam had gone. He said he talked with complainant (C) about sex. He said the girl agreed for him to have sex with her.

He said they left the road about 4 meters. Sam was standing. He said complainant (C) agreed to have sex with him. He took out her cloths. After sex she went back to her house and he went back to his house. It was about 3.00AM o'clock. He said he got a mobile phone.

Defendant Johna Nasep was cross-examined. It was put to him and he denied that before January and July 2009, he asked complainant (C) for sex. He said before January 2009 they did never talk. He denied when he asked complainant (C) for sex, she told him that he is her small daddy.

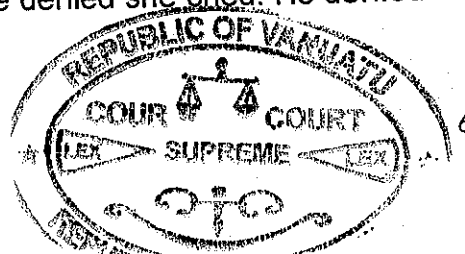
He confirmed that in January 2009 there was a custom festive at complainant's uncle's house.

He accepted that when complainant (C) arrived at Nakamal Iasmetanis he pulled her shirt from her back. He denied he pulled her on the ground. He denied the girl wanted to shout. He denied he told the girl not to call out or shout as the nakamal is close to the place they were and people drunk kava at the nakamal.

He denied he took out her skirt and panty when she was on the ground. He admitted he slept on top of her. He denied he spread her legs and she closed back her legs.

He confirmed he had sex with her. He denied that the girl felt her private part was painful. He denied it was the first time she went out with a man. He denied after sex he left her and went. He denied he told her to have sex with her on another occasion. He denied blood came out from her private part and on her panty.

He confirmed that on 23 July 2009 there was a custom dance at Eunakel village. He confirmed complainant (C) attended the custom dance. He was asked and he said he followed complainant (C). He denied she did not see him. He denied she was surprised he went to her. He denied he held her two hands and closed her mouth with a hand. He denied she was afraid. He denied she cried. He denied he



told her not to follow her father. He denied he told her if she called out he will assault her. He denied she was afraid and tried to run away.

He admitted he pulled her close to a plantation. He denied he pushed her on the ground. He denied he took out her skirt and panties. He denied complainant (C) struggled and cried. He denied she cried and called on her father and mother.

He accepted after sex, she wore back her clothes and returned to her Apu Hamm's house.

He confirmed police arrested him for these incidents. He admitted police questioned him about these incidents. He accepted that during the police questioning, he admitted he had sex with complainant (C) on January 2009 and July 2009.

He denied the girl did not agree to have sex with him on these occasions. He denied he forced complainant (C) to have sex with her. He denied that sexual intercourse was not consented to.

He admitted police read his statement back to him. He admitted he knew about his statement. He said he did not agree with his statement. He admitted he signed his statement. He denied he signed his statement on his free will. His statement to the police was shown to him. He said he did not know how to read nor write. He denied he went to school. Then he said he went to school until class 2. and he said he could write his name.

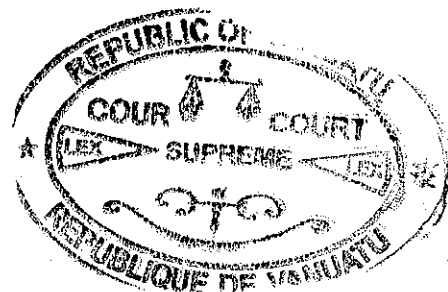
He was asked if he saw a name in his statement. He replied he could see a name and it was his name. He was given a paper and was asked to sign his name. Defendant reproduces his signature on the paper. He was shown his signature on his statement. He confirmed it was his signature. He confirmed police officer who took his statement read his statement back to him. He confirmed he understood the content of the statement.

It was put to him that in his statement to the police he stated he took out the complainant's panties, pushed her on the ground and had sex with her. He denied that.

It was put to him and he said his statement to the police was not true. He said the lady police officer who took her statement forced him.

Sam Naurau is the defence second witness. He gave evidence that on 23 July 2009 he was with Defendant Johna. He was at the custom dance in the night. He said he and an old woman went to her house to get some food (laplap). Complainant (C) and another woman followed them. Johna and Eli followed complainant (C) and the other. He gave evidence that he saw Defendant Johna pulled complainant (C) by her shirt. He saw complainant (C) made "a step backward" in the direction of the Defendant Johna.

They went to the main road and into the bush about 5 meters. He said Johna told him to wait for him with Eli.



He was asked and he said he could not see who walked first. It was dark. They waited about 5 minutes or less and he saw Johna come first on the road. Complainant (C) just walked normally on the road.

This witness was cross-examined. He confirmed it was dark. He could not see properly when he walked on the road. He admitted that if complainant (C) forced her to walk after sex, he could not notice it. He confirmed that if she felt pain in her private part he would not know. If she cried he could hear but he could not see tears from her eyes.

He did not see Defendant had sex with complainant (C). He admitted that if Johna did not pull complainant's shirt she would not follow him. He accepted that because he pulled complainant (C) by her shirt she followed him. He accepted Defendant pulled complainant (C) by her shirt for about 5 meters away. He said Defendant and complainant (C) did not stay in the bush until morning. He confirmed when Defendant had finished sexual intercourse with complainant (C) he left her. He confirmed complainant (C) called Defendant Johna her small daddy. He confirmed in Tanna custom, a small daddy could not have sex with his small daughter. If they find out he would pay fines to the family of his small daughter.

That is the end of the defence evidence.

DISCUSSION ON EVIDENCE

The Court hears, considers and observes the demeanour of each and all witnesses and assesses the evidence of each and all witnesses in this trial. The following findings are made:

Complainant (C) gave evidence that Defendant Johna had sexual intercourse with her on January 2009 and July 2009 without her consent. The Defendant forced her to have sex with her against her consent. She reported the matter to the police on 27 July 2009. She gave very specific details of what the Defendant did to her on January 2009 and 23-24 July 2009. She had a clear recollection of what happened to her. Her evidence shows she resisted the Defendant's demand for sex but because the Defendant was stronger than her, he had sexual intercourse with her. She gave detailed explanation about the Defendant taking out her skirt and panties and she was trying to put them back on but she was unsuccessful. The Defendant took them off and slept on top of her.

She gave detailed aspects of the Defendant trying to spread her legs. She was trying 3 times to close her legs back but it was unsuccessful. The Defendant removed her skirt and panties and had sexual intercourse with her without her consent. She said she cried. She said she was sad and frightened because the Defendant should not do this to her. The Defendant is her "small daddy". The Defendant and her are very closely related.

Despite some minor contradictions between her statement to the police and her evidence in Court, the substance of her evidence is not affected. She was not shaken during her cross-examination. She maintained her evidence throughout. I find that complainant (C) is a strong witness. She is a reliable and trustworthy witness.



Police officer Julian Ben is a CID officer with 4 years of experience of investigation and taking of statements of accused persons and interviewing. She had built up on her experience of investigating sexual offences. She told clearly that she did not force the Defendant during the taking of his statement. Another police officer who arrested the Defendant on 27 July 2009 was also present. She cautioned the Defendant. She read the questions and answers back to the Defendant. The Defendant knew about the questions and answers. She said also the Defendant agreed on the answers he had given to her. She said the Defendant signed his statement.

Her evidence was confirmed by part of the evidence of the Defendant in his cross-examination. This witness is a competent, reliable and trustworthy witness.

Witness Katani Eskar's evidence reflect her personality. She is a simple and shy person. She gave evidence of what she observed of complainant (C). She was in a distress condition. She said complainant (C) looked frightened.

She cried and felt bad and worried. Although she could not express herself fully, she is a reliable and trustworthy witness.

Witness Dominique Eskar gave evidence also on his observation of the distress of the girl complainant. He said complainant (C) looked worried, frightened and felt sad. He is also a reliable witness and trustworthy.

The evidence of the Defendant Johna Nasep is that the girl complainant (C) consented to have sex with him on January 2009 and on 24 January 2009 in the early morning.

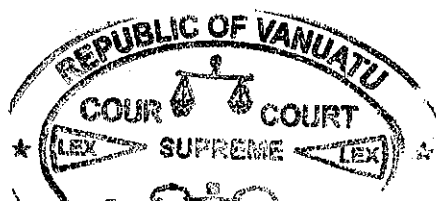
I find the evidence of the Defendant was in great part denials. His evidence on the essential aspect of the issue of consent was very general as constituting mere denials. The evidence of the Defendant is also traversed with contradictions in the essential aspect of the issue at trial. He said police officer Julian Ben forced him. However, he did not specify how and in what way a woman police officer forced him in his statement. I reject that part of his evidence. The Defendant also said he could not read nor write but when insisted he could write his signature, recognize it and read his name and understand the content of his statement to the police on 28 July 2009.

I find that Defendant Johna is not a reliable and trustworthy witness.

I find that some part of the evidence of the witness Sam Naurau support the evidence of the complainant (C). Other aspects of his evidence are not relevant to the issue of consent. I make no specific finding as to Sam Naurua's credit worthiness.

APPLICATION OF THE LAW

There is overwhelming evidence that complainant (C) did not consent to have sexual intercourse with Defendant Johna Nasep on January 2009 and on 24 July 2009 in the early morning. That evidence comes from the evidence of the complainant herself and also the evidence of police officer Julian Ben that the



Defendant admitted he had sex with complainant (C) without her consent on January and July 2009. The Court is satisfied beyond reasonable doubt that sexual intercourse between the Defendant and the complainant (C) is not consensual on January 2009 and July 2009. No corroborating warning would be required.

In this case I gave little weight to the evidence of Katani Eskar and Dominique Eskar as evidence of corroboration.

The law on corroboration is applied in following cases: **PP v. Mereka** [1992]; **PP v. Sano Alvea** [1996]; **Walker v. PP** [2007]; **PP v. Allan Noppert and Dorah Noppert** [2007]; **PP v. Christopher Dawson** [2009]. The following extract is taken from **PP v. C. Dawson**:

"Corroboration

There is no specific statutory provision covering the matter of corroboration in criminal cases in Vanuatu. The Vanuatu Courts have recourse to the position at common law with regard to corroboration. The legal position at common law is that generally one witness is sufficient in all cases at trial. In any event, judges are required to head the warning of the danger of convicting on uncorroborated evidence of witnesses who fall into one of the following categories:

- (a) accomplices; or
- (b) complainant in sexual offences; or
- (c) the unsworn testimony of a child.

(PP v. Mereka [192] VUSC 10 [1980-1994] VLR 613; PP v. Sano Alvea [1996] VUSC 18; Walker v. PP [2007] VUSC 12).

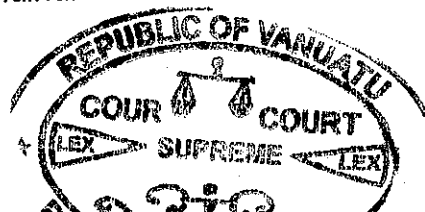
Although, in PP v. Sano Alvea [1996] VUSC 18, I held the view that in sexual offences cases corroboration warning is a requirement of law. However, in the case of PP v. Allen Noppert and Dorah Noppert (Criminal Case No.56 of 2007), I had reviewed the position I had on the matter and held that it is a requirement of practice. That is the position which I apply in this case.

In the present case, there were overwhelming other evidence corroborating in material ways the evidence of the complainant. As such, no corroboration warning would be required.

*The most significant piece of corroborative evidence in this trial was the evidence of the complainant's distress, observed by at least five witnesses. The prosecution counsel referred the Court to the judgment of the Court of Appeal of Fiji in **Soqonaivi v. State** (Majority Judgment) [1998] FJCA 64, (per Tikaram P and Tompkins JA) in which it was held:*

'We turn now to consider the submissions relating to the evidence of her distress. The Judge directed the assessors:

The second item of evidence that is capable of amounting to corroboration is the distress of the complainant immediately after the incident. The complainant's mother gave evidence that she was asleep and heard the frig door open. Then she heard the complainant in her bedroom and the



complainant was crying. That was shortly after the complainant got home from the Accused's house. Significantly, the complainant was not crying in front of her mother. She was in her bedroom, on her own, and her mother, who had been woken by the frig door closing, happened to hear it. Mrs Davis said that she then went into the complainant's room. She described the complainant as crying and shaking. Constable Kumar said that when he saw the complainant later the same morning she looked very sad and distressed. However, that was a considerable time after the incident. If you are satisfied that the complainant was genuinely distressed shortly after the alleged rape then that could be corroborated of her lack of consent. However, again you must exercise some caution in using the evidence for that purpose. You must first exclude the possibility that she was distressed for some other reason that is consistent with the Accused's explanation. For instance, remorse because she had participated in sexual intercourse with the accused or because he had assaulted her causing a painful injury.

Mr Fa accepted that evidence of distress is capable of amounting to corroboration. But he submitted that the Judge's warning to the assessors that the evidence should be treated with caution, was inadequate.

In **R v. Redpath** [1962] 46 CRAPP Re 319, Parker LCJ said:

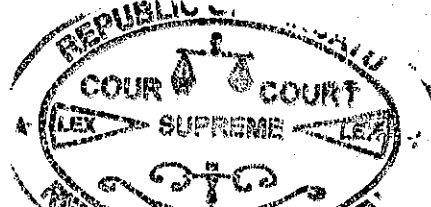
It seems to this court that the distressed condition of a complainant is quite clearly capable of amounting to corroboration. Of course, the circumstances will vary enormously, and in some circumstances quite clearly no weight or little weight could be attached to such evidence as corroboration. Thus, if a girl goes in a distressed condition to her mother and make a complainant, while the mother's evidence as to the girl's condition may in law be capable of amounting to corroboration, quite clearly the jury should be told that they should attach little if any weight to that evidence because it is all part and parcel of the complainant. The girl making the complainant might well put on an act and stimulated distress.'

That approach was adopted by this Court in **Maciu Gonevou v. The Sate**, Criminal Appeal No.12 of 1992."

In the circumstance of this particular case, if none of the evidence corroborates the evidence of the complainant (C) and further if the evidence of witness Julian Ben is held inadmissible, I warn myself that there is a danger to convict the Defendant on the evidence of complainant (C) alone. I bear that warning in mind, I have looked at the particular facts of this case with care, and after I have given full weight to the warning that it is dangerous to convict, the Court comes to the conclusion that in the particular case complainant (C) is without any doubt speaking the truth, the Court is satisfied beyond reasonable doubt that Defendant Johna Nasep committed the offence of sexual intercourse without consent contrary to sections 90(a) and 91 of the Penal Code Act [CAP.135] on January 2009 and 24 July 2009.

VERDICT

Defendant Johna Nasep is found guilty and is convicted of sexual intercourse without consent, contrary to Section 90(a) and 92 of the Penal Code Act on counts 1 and 2 as charged against him on the information dated 24 September 2009.

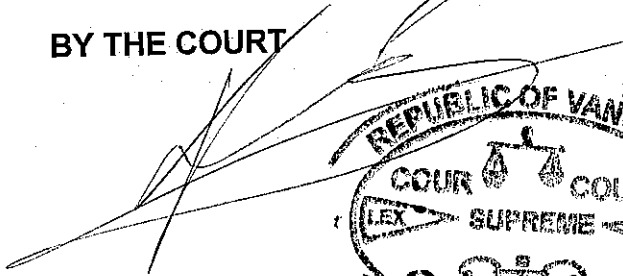


DIRECTION ORDER

1. Submissions on sentence on Friday 26 February 2010 at 1.30PM o'clock at Isangel, Tanna.
2. Probation Officer to provide a Same Day Report before the sentence submissions on 26 February 2010 at 1.30PM.

DATED at Isangel, Tanna this 26th day of February 2010

BY THE COURT


Vincent LUNABEK
Chief Justice

