

**PUBLIC PROSECUTOR – VS – JEAN AUGUSTINO MOLVAN**

**Coram:** Mr. Justice Oliver A. Saksak

**Counsel:** Sgt Rexton Langon, State Prosecutor as Agent for Ken Massing for the State.  
Mr. Lent Tevi for Defendant

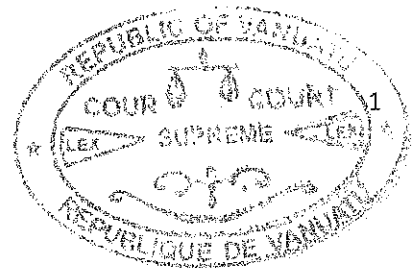
**SENTENCE**

1. Jean Augustino Molvan, you are for Sentence today for having pleaded guilty to one Count of Incest contrary to Section 95 (1) of the Penal Code Act Cap. 135.
2. The maximum penalty for this offence is 10 years imprisonment.
3. You have conceded the facts as presented by the prosecutions which are summarized as follows –

On 30<sup>th</sup> July 2010, at night and in the family room you removed the victim's t-shirt and told her not scream. You then touched her on both breasts and fondled them by sucking at them. Later you removed her trousers and panty, spread her legs apart and performed oral sex on her vagina and inserting your tongue into her vagina. She was 12 years old and you were 37 years old at the time of the offending.

4. The principles of sentencing in offendings of incest are well established in the Cases of Public Prosecutor v. Bae [2003] VUCA 14 and Solaise Abednigo v. Public Prosecutor Criminal Case No. 3 of 1990 that –

*“parents who use their children for their own sexual gratification will go to prison....”*



5. Further the Cases of Wotu v. Public Prosecutor [2011] VUCA and Public Prosecutor v. Gideon [2002] VUCA 7 clearly establish that –

*“.....Men who take advantage sexually of young people forfeit the right to remain in the Community.”*

6. Following the above sentencing principles the only appropriate sentence for you today will be a custodial one.

7. This sentence will serve the following purposes –

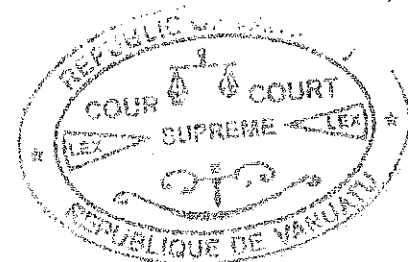
- (a) To mark the seriousness of your offending.
- (b) To mark public condemnation or disapproval of your actions.
- (c) To deter you and others who may be minded to do the same.
- (d) To punish you adequately and appropriately; and
- (e) To protect the young and vulnerable.

8. I adopt the starting point of 4 years imprisonment for your offending of incest. I increase it by 2 years for the following aggravating features:-

- (a) The age disparity between you being 37 years and the victim being only 12 years old at the time of the offending.
- (b) Breach of trust between a father and his daughter.
- (c) The offending occurred in the privacy of the Marriage home and at night.
- (d) There was some degree of indecency such as touching, squeezing and sucking of the breasts and vagina.
- (e) The offending was premeditated.

For these, the sentence of 4 years is increased by 2 years to 6 years imprisonment.

9. I now consider the mitigating factors and will allow some reductions as follows –



(a) For guilty plea at first opportunity – 2 years representing a 1/3 reduction bringing the sentence back down to 4 years imprisonment.

(b) For:-

- (i) Custom reconciliation showing remorse;
- (ii) Clean record and being a first time offender;
- (iii) Good cooperation with the Police at interview and investigation; and
- (iv) Delay of 15 months.

For all these a reduction of 2 years and 6 months are allowed. The balance of the sentence is therefore 1 year and 6 months or 18 months.

10. You are therefore sentenced to serve a term of imprisonment for a period of 18 months (1 year and 6 months) at the Correctional Centre in Luganville, Santo.

11. Your sentence is backdated to 17<sup>th</sup> October 2013 when you were first remanded in custody. A Warrant of Imprisonment is accordingly issued.

12. You have a right of appeal within 14 days against sentence, if you so choose.

**DATED at Luganville this 9<sup>th</sup> day of December 2013.**

**BY THE COURT**

  
**OLIVER A. SAKSAK**

**Judge**

