

BETWEEN: PUBLIC PROSECUTOR

AND: HIU BLESSING

Defendant

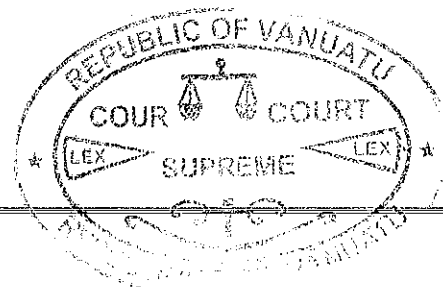
Before: *Justice Aru*

Counsel: *Mr. K. Massing for the Public Prosecutor*
Mr. J. Garae for the Defendant

SENTENCE

1. **HIU BLESSING** you appear today for sentencing in this matter. You were initially charged with one count of sexual intercourse contrary to section 90 and 91 of the Penal Code [CAP 135]. The offence is punishable with a maximum penalty of life imprisonment.
2. On 7 May 2018 you entered a not guilty plea to the charge and the matter was set down for trial on Gaua. Before the trial begun, the Public Prosecutor sought leave to amend the information with the agreement of Counsel for the defendant. Two further charges were then added. Count 2 - unlawful sexual intercourse contrary to s 97(1) and count 3 – unlawful sexual intercourse contrary to s97 (2).
3. On 6 June 2018 you were re-arraigned on the amended information. You then entered the following pleas:

Count 1 – not guilty
Count 2 - guilty
Count 3 – guilty



4. The Public Prosecutor then applied and entered a nolle prosequi in relation to count 1. You were therefore discharged accordingly on that count. The law under which you are charged was recently amended to increase penalties for these offences but that only applies as of February 2017 onwards. Your offending occurred previous to that change therefore the changes do not apply in this case.

5. The summary of facts as agreed are that a complaint against the defendant was made on 20 February 2018 by the victim for unlawful sexual intercourse. The complaint was that the offences took place on Gaua Island in 2012 when the complainant was 11 years old and again in 2015 when the complainant was 15 years old. At that time they were both living together. The complainant regarded the defendant as her father. He was a 41 year old man at the relevant time and started having sexual intercourse with her over a period of time before the complainant ran away and reported the matter to one Morinda Stephens who assisted the complainant in reporting the matter to the Police. After being cautioned the defendant admitted to having sexual intercourse with the complainant.

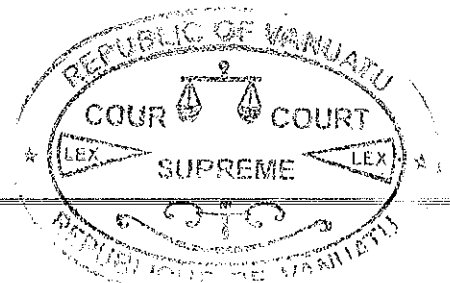
6. Sexual intercourse with a child under 13 years is a very serious offence as it is punishable by up to 14 years imprisonment. Similarly sexual intercourse with a child under 15 years but over 13 years is also punishable by up to 5 years imprisonment. Your excuse for committing the offences is that you did not know that having sex with a child of such age is an offence. Ignorance of the law is not a defence.

7. The following factors are taken into account as aggravation:

- Breach of trust
- Age disparity
- Offending was repeated
- Psychological effect on the victim for the rest of her life
- Exposure to pregnancy and Sexually Transmitted Disease (STD's)

8. The following cases were referred by Counsel for consideration by the Court:

- **Public Prosecutor v Gideon** [2002] VUCA 7
- **Public Prosecutor v Andy** [2011] VUCA 14
- **Public Prosecutor v Ure** [2017]VUCA 22



- **Public Prosecutor v Mark Moi** [2015] VUSC 94

9. I adopt a starting point of 8 years imprisonment.

10. The defendant comes from Baravet village on Gaua. His personal details as submitted by Counsel are as follows:

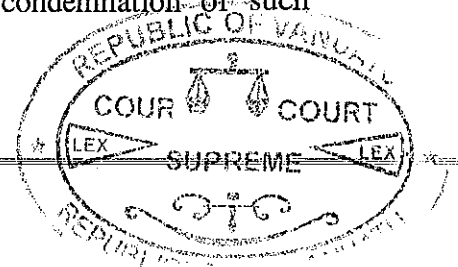
- Married with 3 children – one child in Losalava Secondary school; 2 in Aworo primary school;
- Completed school at year 10 at Arep Secondary school;
- From 2006 to 2013 he was working at Mataka Health Centre;
- He is the sole bread winner and involves in gardening and copra to make a living for his family as he wants a good life for his children;
- He reconciled his differences with his wife with money and a pig but no custom reconciliation was done with the victim except he said sorry.

11. Mitigating factors taken into account:

- First time offender
- Admission of offending and early guilty plea
- Remorseful for actions
- 71 days spent in custody

12. For your guilty plea I allow the full one third discount which reduces your sentence rounded off to 5 years imprisonment. As a first time offender with no previous record I deduct 6 months reducing your sentence to 4 years and 6 months imprisonment. A further 6 months is deducted for remorse shown and time spent in custody which further reduces leaves your sentence to an end sentence of 4 years imprisonment effective from today. Given the seriousness of the offending the sentence will not be suspended. As for count 2 you are sentenced to one and half years imprisonment which is to be served concurrently.

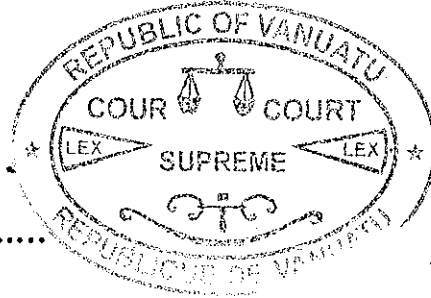
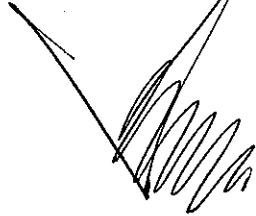
13. The sentence imposed is to serve as punishment for your crimes and to serve as a deterrent to your future offending and to likeminded individuals and the public at large from similar offending. It is also to mark public condemnation of such offending.



14. You have 14 days to appeal if you are not happy with the decision.

DATED at Gaua this 8th day of June, 2018

BY THE COURT



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D. Aru

Judge