

**IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU**  
(Criminal Jurisdiction)

**Criminal  
Case No. 21/3803 SC/CRML**

**PUBLIC PROSECUTOR**  
**v**  
**CHARLIE NANGO JUNIOR**

*Date:* 18 November 2022  
*Before:* Justice V.M. Trief  
*Counsel:* Public Prosecutor – Ms J. Tete  
Defendant – Mr W. Kapalu

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**SENTENCE**

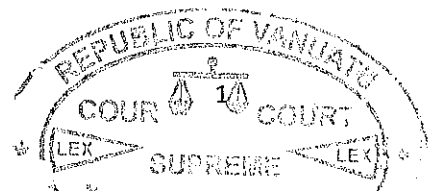
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A. Introduction

1. Mr Nango Junior pleaded guilty to unlawful sexual intercourse with a child under 15 years of age but over 13 years.

B. Facts

2. At the time of the offending, the complainant BN was 14 years old.
3. BN is the adopted daughter of Mr Nango Junior's elder brother. At the time of the offending, Mr Nango Junior was living at BN's home on Tanna island.
4. On 22 October 2021, BN went to stay at the house of a Tafea College teacher. At around 2am on 23 October 2021, Mr Nango Junior called BN to follow him home or else her father would come and damage properties at the teacher's house. This scared BN and so she agreed to follow him home.
5. They were walking home when Mr Nango Junior grabbed BN's hand and pulled her to a burao tree. He told her to remove her shirt but she refused. He then removed her shirt. She wanted to scream but he blocked her mouth. Mr Nango Junior then tore her skirt, removed her panty, pushed her to the ground and made her lie there.
6. He told her to suck his penis but she refused. He then squeezed open her mouth and forced her to suck his penis. He removed his penis from her mouth and then had sexual intercourse with her by penetrating her vagina. When he was finished, he told her not to tell anyone or she would get beaten. Then they went home.

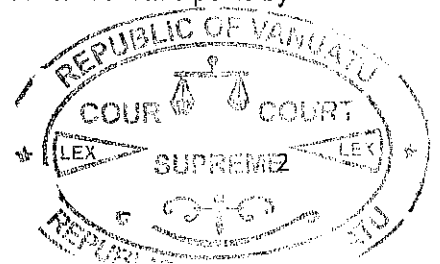


C. Sentence Start Point

7. The sentence start point is assessed having regard to the offending, its aggravating and any mitigating features, the maximum sentence set by Parliament and guidance provided by earlier cases.
8. The maximum sentence for this offending is 15 years imprisonment: subsection 97(2) of the *Penal Code* [CAP. 135].
9. There are no mitigating aspects to this offending. However there are several aggravating factors including:
  - Breach of trust as they are related;
  - The age disparity of 12 years; .
  - Force was used;
  - The effect upon BN including psychological trauma; and
  - There was some degree of planning and premeditation in the offending.
10. The Prosecution submitted that a sentence starting point of 5-7 years was appropriate, referring to *Public Prosecutor v Epsi* [2011] VUSC 287 and *Public Prosecutor v Kellen* [2020] VUSC 227. I will not discuss the former case as it involved two charges of unlawful sexual intercourse, the first of which was punishable by life imprisonment. In the second case, the judge adopted a sentence start point of 6 years imprisonment. A mitigating aspect in that case was that no force was used on the complainant.
11. Mr Kapalu on your behalf submitted that a starting point of 5 years imprisonment was appropriate, with an end sentence of 2 years and 6 months, suspended.
12. I consider that the factors set out above require a sentence start point of 6 years imprisonment.

D. Mitigation

13. Mr Nango Junior pleaded guilty at the earliest available opportunity. He is entitled to a discount for sparing the need for BN to give evidence and the saving of Court time and expense. For his prompt plea I reduce the sentence start point by 25%.
14. Mr Nango Junior is 25 years old with no previous convictions. He has a new family. His first born son was born in August 2022. He is remorseful. He has performed a substantial custom reconciliation ceremony with BN and her family involving ceremonial goods to the value of VT200,000. These were accepted by BN and her family. He is well supported by his family and chief.
15. For Mr Nango Junior's personal factors, I further reduce the sentence start point by 12 months.



16. In addition, another month is deducted to take into account the 4 weeks that Mr Nango Junior has already served in custody (29 October-26 November 2021).

E. End Sentence

17. Mr Nango Junior is sentenced to 3 years 5 months imprisonment.

18. The sentence imposed reflects the need to deter Mr Nango Junior and others from acting in a similar way in future and the need to hold Mr Nango Junior accountable for his criminal conduct. The sentence is also imposed to denounce such criminal conduct against young girls and against the values of society.

19. It is inappropriate to suspend all or part of the sentence due to the serious nature and the type of offending involved.

20. This sentence of imprisonment may not be enforced until the time of appeal against sentence has expired or Mr Nango Junior earlier elects to begin serving his sentence in accordance with s. 50 of the *Penal Code*.

21. Mr Nango Junior has 14 days to appeal the sentence.

22. The details leading to identification of BN are permanently suppressed.

**DATED at Port Vila this 18<sup>th</sup> day of November 2022  
BY THE COURT**

  
Justice Viran Molisa Trief

