

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

Criminal Case No. 26 of 2013

PUBLIC PROSECUTOR – VS – RICKY JACK

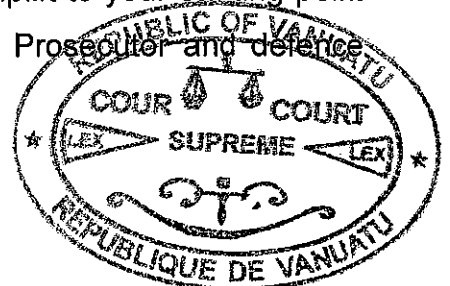
Coram: Mr. Justice Oliver A. Saksak

Counsel: Ms. Kayleen Tavoia, Public Prosecutor for the State
Ms. Jane Tari for the Defendant

Date of Sentence: 11th October 2013
Issued on: 18th October 2013

SENTENCE

1. Ricky Jack you pleaded guilty to one Count of unlawful sexual intercourse contrary to section 97(2) of the Penal Code Act Cap. 135 (the Act). The maximum penalty for this offending is 5 years imprisonment.
2. Your victim was only 14 years old at the time of offending on 16th May 2013. She is the younger sister of your girl friend. You are older than her by 8 years. This incident happened after the closing of a church youth conventions. You have conceded the other facts as presented by the Prosecutor.
3. The facts presented reveal the following aggravating features –
 - (a) Breach of trust.
 - (b) There was some degree of pre-meditation or planning on your part.
 - (c) Some false representations were made to the victim to follow you to your home to wait for her sister but there was another motivation behind it all.
 - (d) There was some degree of force used in removing her clothes.
 - (e) Some injuries were sustained by the victim as indicated in the medical report.
4. I consider that these aggravating features warrant an uplift to your starting point which I accept to be 3 years imprisonment. Both the Prosecutor and defence

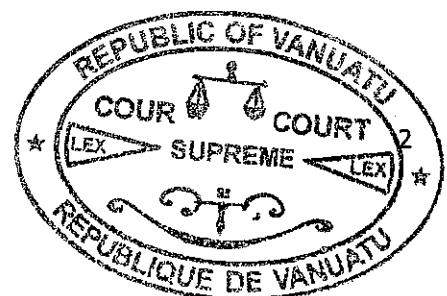


counsel submitted that a sentence of 3 – 4 years imprisonment would be appropriate.

5. Your offending warrants that you must be punished by a custodial sentence. The Court of Appeal said this in the case of Public Prosecutor vs. Gideon [2002] VUCA 7 that –

“It will only be in a most extreme of cases that suspension could ever be contemplated in a case of sexual abuse.....Men must learn that they cannot obtain sexual gratification at the expense of the weak and the vulnerable. What occurred is a tragedy for all involved. Men who take advantage sexually of young people forfeit the right to remain in the Community.”

6. I cannot see anything exceptional in your case to impose another sentencing option short of a custodial sentence. What you did was deplorable behavior and the Court must impose a sentence that will serve the following purposes:-
- (a) Mark the seriousness of your offending;
 - (b) Mark public disapproval or condemnation of your action;
 - (c) A deterrence to you and to other men;
 - (d) To protect young girls and women generally; and
 - (e) To punish you appropriately.
7. You are therefore convicted and sentenced to 4 years imprisonment which includes 1 year for the aggravating features. And there will be no suspension of sentence.
8. However, I consider that you are entitled to reductions for the following mitigating factors –



(a) For guilty plea, there will be a reduction of 1 year and 4 months from your initial 4 years sentence. This represents a 1/3 reduction. The balance is therefore 2 years and 8 months.

(b) There will be a further reduction by 8 months for customary reconciliation showing remorse and for good cooperation with the police during investigation and interviews, and for being a first time offender. That leaves the balance at exactly 2 years.

9. You are therefore sentenced ultimately to serve a term of 2 years at the Correctional Centre in Luganville. Your Sentence is immediate commencing on the date of this sentence, being 11th October 2013.

10. You have a right of appeal against sentence within 14 days of you are not happy with it.

DATED at Luganville this 11th day of October 2013.

BY THE COURT


OLIVER A. SAKSAK

Judge

