

PUBLIC PROSECUTOR VS- JOEL HANGO

Coram: Mr. Justice Oliver A. Saksak

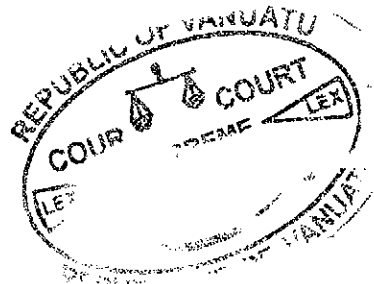
Counsel: Damien Boe for Public Prosecutor
Jane Tari for Defendant

Date of Plea: 7th May 2018

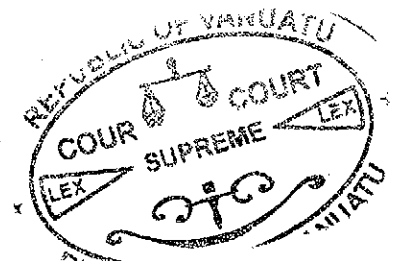
Date of Sentence: 11th May 2018

SENTENCE

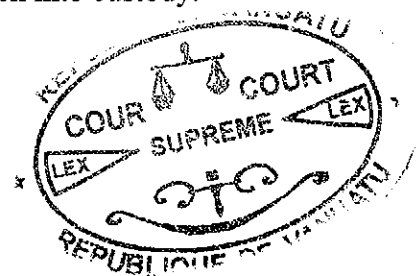
1. Joel Hango you are for sentence today for having pleaded guilty to two charges on 7th May 2018. The charges are Sexual Intercourse without consent (Sections 90 and 91) and Act of Indecency with a young person (Section 98A). The first offence is very serious as it carries a maximum sentence of life imprisonment. The second offence carries a maximum penalty of 10 years imprisonment.
2. The complainant was only 12 years old at the time of the first incident in 2016. She was in Class 5 then at a primary school on Pentecost Island. She is related to you. You were about 62 years old then, some 50 years older than her. In 2016 in the early hours of the morning you went into her room while she was still asleep. You approached her on her bed, removed her clothes and sucked on her breasts and vagina. She refused and cried and felt painful at the time. You had threatened to kill her.
3. In 4th May 2017 it happened the second time in the garden. You forced her to remove her clothes. You pushed her onto the grass. Then you sucked on her vagina again. Later you pushed your fingers onto her vagina. She felt pain and cried as a result. You gave her VT 200 to keep her silent but she reported to her mother what you did. The matter was reported to the police who investigated the complaint. On interview with you by the police you admitted doing all these things to the complainant.



4. Your actions clearly fall within the definitions of sexual intercourse in Section 89 (b) and (d) of the Penal Code Act [CAP.135]. What you did was really bad and shameful particularly when you are an old man, fully grown and mature, with children of your own. What you did was a disgrace and you should really be ashamed of yourself.
5. In considering and assessing your appropriate punishment I am assisted by the clear sentencing principles established in the classic Vanuatu cases of PP.v. Scott [2002] VUCA 29, PP.v. Gideon [2002] VUCA 7 and PP.v. Andy [2011] VUCA. These cases adopted the principles set out in the foreign cases cited by Mr Boe in his written submissions. Those principles are therefore well-established principles of law and this Court is bound and will apply them to your case.
6. Adding to the already serious offendings you committed are the following features-
 - a) Clear abuse and breach of trust
 - b) Great age disparity between you and the victim.
 - c) The repetition of the offences.
 - d) Acts of sexual perversions.
 - e) Some degree of planning.
 - f) Impact on the victims education and future, both mentally and physically.
 - g) The risks of pregnancy, disease and physical injuries.
 - h) Degree of force used on her.
 - i) The offending done within the confines of the home where she was supposed to feel safe and protected.
7. In your case the only appropriate sentence will be a sentence of imprisonment. This is to send a clear message that those who commit the offence of sexual intercourse without consent will go to prison immediately. This is to serve the following purposes-
 - a) To mark the seriousness of your offending;
 - b) To mark the Court's disapproval of your actions,
 - c) To deter you and other like-minded persons,
 - d) To protect young girls, women and generally the vulnerable and



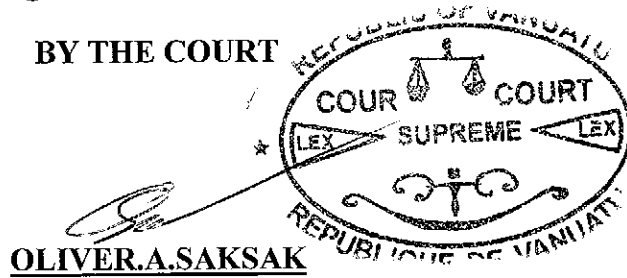
- e) To punish you adequately for your actions.
8. I consider therefore that your starting sentence, taking all the aggravating features together with the seriousness of the offences committed shall be-
- a) For sexual intercourse without consent- 8 years imprisonment
 - b) For act of indecency with young person- 4 years imprisonment.
- These sentences will be served concurrently making a total of 8 years imprisonment.
9. You are therefore convicted and sentenced to a starting sentence as a concurrent sentence, of 8 years imprisonment.
10. In mitigation, I take into account the factors in your pre-sentence report and the written submissions of your lawyer, Mrs Aru. You are now 64 years old, a simple villager with 7 children. You left school from year 7. You performed a substantial custom reconciliation ceremony with a fine of VT 200.000 and 6 pigs and made a public confession showing remorse and contribution. You cooperated well with the police and made admissions to them during your interviews with them. Your early guilty pleas, your pre-custodial period from 12th February 2018 and also your pre-clean record are taken into account.
11. For those mitigating factors, I reduce your concurrent sentence of 8 years by 12 months, leaving the balance at 7 years imprisonment.
12. I allow a further 1/3 reduction for your early guilty pleas from the 7 years, leaving the end sentence at 4 years and 8 months.
13. You are therefore to serve the end sentence of 4 years and 8 months imprisonment commencing from 12th February 2018 when you were first taken into custody.



14. That is the sentence of the Court. You have a right of appeal against this sentence within 14 days if you do not agree with it.

DATED at Luganville this 11th day of May 2018

BY THE COURT



OLIVER.A.SAKSAK

Judge