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

Criminal
Case No. 20/3471 SC/CRML

PUBLIC PROSECUTOR
v
VALERIEN KOREH RAPOUL

Date: 18 October 2021
Before: Justice V.M. Trief
In Attendance: Public Prosecutor – Mr D. Boe
Defendant – Mr R. Willie

SENTENCE

A. Introduction

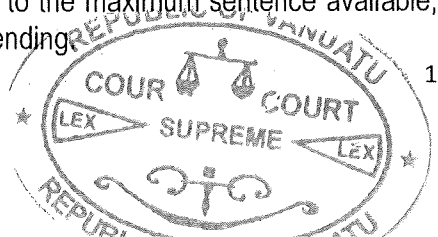
1. The Defendant Valerien Koreh Rapoul was convicted after trial of one charge of sexual intercourse without consent.

B. Facts

- 2. The detailed facts are set out in the Verdict dated 14 October 2021 but summarised as follows:
- 3. Mr Rapoul is the complainant Mrs Morris' brother-in-law as he is married to her sister.
- 4. On 8 October 2020, Mrs Morris was alone at her garden weeding. Mr Rapoul approached her, grabbed her neck, pulled her and said he wanted them to have sex. She was clear that she did not agree to sex with Mr Rapoul, saying no to him, that she did not want him to touch her, that her body was not right, that she had her period and for him to find another woman to have sex with but not her.
- 5. Mr Rapoul used force in grabbing her neck, keeping a tight hold of her and once he had forced her to the ground, lying on her to prevent her escape. He placed his knife next to them which frightened Mrs Morris. She cried and struggled to get away from Mr Rapoul but could not. He lay on top of her and had sexual intercourse with her.

C. Sentence Start Point

6. The sentence start point is assessed having regard to the maximum sentence available, and the mitigating and aggravating factors of the offending



7. The maximum sentence provided is life imprisonment.
8. There are no mitigating aspects to the offending. However, the offending is aggravated by the following:
 - a. Breach of trust;
 - b. Planning and premeditation;
 - c. The use of force and a weapon to effect the rape;
 - d. The offending took place in an isolated area;
 - e. Exposing the complainant to the risk of sexually transmitted infection and pregnancy; and
 - f. The effect on the complainant including fear and trauma.
9. The factors set out above require a sentence start point of 7 years 6 months imprisonment.

D. Mitigation

10. Mr Rapoul is 35 years old. He is married and has 3 children. He is a copra, kava and livestock farmer by occupation.
11. He has no previous convictions. However, in cases of sexual offending, a person's previous good character has very little relevance in mitigating a sentence.
12. He has not performed a custom reconciliation ceremony with the complainant and her family.
13. For Mr Rapoul's personal factors, I deduct 2 months from the sentence start point.

E. End Sentence

14. The end sentence imposed is 7 years 4 months imprisonment. The sentence is back-dated to commence as from 13 October 2021 to take into account time already served.
15. There will be no suspension of sentence: *Gideon v Public Prosecutor* [2002] VUCA 7.
16. Mr Rapoul has 14 days to appeal.

DATED at Luganville this 18th day of October 2021
BY THE COURT

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Justice Viran Molisa Trief

