

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

Criminal case No.21/2173  
SC/CRML

PUBLIC PROSECUTOR

V

PAUL AMBONG  
*Defendant*

*Before:* Justice Oliver A. Saksak

*In Attendance:* Mr Christopher Shem for Public Prosecutor  
Mr Kalo Shem Amos for the Defendant

*Date of Plea:* 19<sup>TH</sup> October 2022

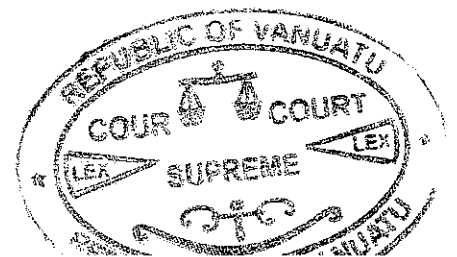
*Date of Sentence:* 21<sup>st</sup> October 2022

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## SENTENCE

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1. Paul Ambong pleaded guilty to one count of act of indecency contrary to section 98 (a) of the Penal Code Act [Cap 135] and is in Court today for sentence.
2. This offence is punishable to a maximum penalty of 7 years imprisonment.
3. The offending occurred at Tisman Village on 6<sup>th</sup> May 2019. The victim, a 19 years old girl was walking along the road to Bangir Village with two other girls. The two girls left the victim at some point who continued to walk towards the village on her own. She then noticed the defendant running behind her. The defendant came close to the victim and grabbed her.
4. The defendant then pushed the victim to the ground. She stood up again but he pushed her down a second time. He then sat ontop of the victim and tried removing the victim's trousers. The victim struggled to get free and to call out but the defendant blocked her mouth. The victim asked the defendant what he wanted and her told her he wanted to have sex with her. After hearing this the victim gathered all her strength, pushed the defendant off her, got up and ran.
5. The victim made a complainant statement to the Police the next day, 7<sup>th</sup> May 2019.




6. The Police questioned the defendant on 16<sup>th</sup> September 2019 and he admitted holding the victim tight on 6<sup>th</sup> May 2019 with the intention of having sex with her.
7. The defendant was arrested and held in custody on remand for 25<sup>th</sup> May 2021 and was released on bail on 9<sup>th</sup> August 2021.
8. There was no mitigating circumstances warranting the commission of this offence.
9. The aggravating features of the offending were that there was a degree of planning involved, the fear caused to the victim by the defendant and the humiliation and shame caused to the victim. The defendant pushed the victim to the ground 2 times and forced her down by sitting on top of her. He blocked her mouth to stop her shouting.
10. The defendant's case differs from the case of PP v Tangiat [2014] VUSC 12, PP v Leo [2016] VUSC 32, PP v Natiang [2021] VUSC 116 and PP v Gideon [2002] VUCA 7 in that those cases involved skin to skin touching of breast and/or vagina what the defendant did was an attempt to achieve sexual gratification but his action of sitting on top of the victim and trying to remove her trousers with force and without her obvious consent was an indecent action to her, causing her humiliation and shame.
11. As such I accept Prosecutions submissions that the defendant's offending falls at the lower end of the scale.
12. Taking all those factors together I adopt the start sentence of 18 months imprisonment. This is to ensure that:
  - The seriousness of this offending is reflected,
  - The actions of the defendant is denounced,
  - The weak and vulnerable members of the community are protected,
  - The defendant is deterred as well as like-minded persons, and
  - The offender is held accountable and responsible for his actions and conduct and that he is punished adequately for them.
13. In mitigation I consider his guilty plea and early admission to the police and allow a 1/3 reduction. His start sentence is reduced by 8 months down to 10 months imprisonment.
14. I have seen his pre-sentence report dated 18 October 2022 showing the defendant is 30 years old living in a defacto relationship with 2 young children of 2 years old and 3 months old. He earns a living as a farmer. He is the last born of 3 brother. He is the care-taker of their disabled father. He had a good working relationship with his family and the community but his offending was somewhat of a surprise to them. He is otherwise a physically fit person. His ambition is to build a family house and to care for his father. He had kept a clean past



record as a first time offender. I note there has been a delay in prosecuting his case. And he had already spent 3 months and 15 days in custody on remand.

15. For these factors together the Court allows a further reduction of 4 months leaving the balance and end sentence to be 6 months imprisonment.
16. I have taken account of his 3 months and 15 days period from 25<sup>th</sup> May 2021 to 9<sup>th</sup> August 2021. Having served that period it is therefore inappropriate to impose an additional order of community work of 80 hour as proposed by Prosecution.
17. However I accept their submissions that in the circumstances, the nature of the offence alleged and the character of the defendant, that his end sentence of 6 months imprisonment be suspended under section 57 of the Penal Code Act.
18. The suspension period is 2 years. This means the defendant does not go to prison today. He will go back to his village but must remain offence free for a period of 2 years from today. If the commits this offence again or any other criminal offences for when he would be charged and convicted, he will go to prison for 6 months.
19. That is the sentence of the defendant. He has 14 days to appeal against this sentence if he does not agree with it.

**DATED at Lakatoro this 21<sup>st</sup> day of October 2022**  
**BY THE COURT**

  
**Oliver A. Saksak**  
**Judge.**

