

**IN THE MAGISTRATE'S COURT AT LABASA**

**CRIMINAL JURISDICTION**

*Criminal Case No. 82 of 2020*

**STATE**

v

**ILIOREPI MATARUGU**

Appearance : **CPL Prasad** for the prosecution  
**Accused** in person

Sentence : **21 February 2020**

**SENTENCE**

1. Iliorepi Matarugu, today is for sentencing for one count of *Indecently Insulting or Annoying Any Person* where you contravened *section 213(1)(b)* of the *Crimes Act*.
2. On 3 February 2020, you waived your rights to counsel and you pleaded guilty to the charge. I find your plea to be unequivocal as it was given on your own free will.
3. The name of the victim is suppressed to protect her privacy and interest and is referred to as "the Victim" in this sentence.
4. The brief summary of facts are that on 28 December 2019, at Nukusa village, the victim who was 12 years old was lying

down in their bedroom with her 2 years old baby brother while their mother went out. The mother of the victim is the daughter of the accused Iliorepi Matarugu. The accused is the grandfather of the victim.

5. The victim was facing the ceiling as she was watching movie on her mother's mobile phone. While watching the movie, the accused came into the room and lay on top of the victim for about 10 seconds and rest his head on the shoulder of the victim. The victim was about to cry when the accused stand up and left without saying any words. After that, the victim turned and face the floor while watching the movie. After a while the accused returned to the room and lay on the back of the victim. After a while the accused slide down to the victim's side and watched the cartoon with the victim.
6. The victim was scared and did not inform anyone. On 12 January 2020, the victim shared the story to her friend who later informed the victim's mother. The family had a talk where the accused apologise to the victim. The matter was reported to the police by the class teacher of the victim.
7. The Accused admitted to the above summary of facts on 3 February 2020, and was convicted as charged. The accused submitted his oral mitigation on the same day.
8. The maximum penalty for *Indecently Insulting or Annoying Any Person* is 12 months imprisonment. The tariff is from 3 to 6 months imprisonment.
9. The aggravating factors are ;-
  - a. *The victim was your granddaughter who was 12 years old at the time of the offence,*
  - b. *You are the victim's grandfather and you breached that trust.*

- c. *You have no respect for the victim.*
- d. *You took advantage on the vulnerability of the victim at the time of the offence and exploit her with your evil intention.*

10. The compelling mitigating factors are ; -

- a. *First offender with 58 years of good character,*
- b. *Seek the court's forgiveness,*
- c. *Promise not to re-offend.*

11. For your sentence, I pick 4 months as my starting point. I add 3 months for the aggravating factors and that increase your sentence to 7 months imprisonment. I reduce 1 month for your mitigation and that reduce your sentence to 6 months imprisonment. You entered an early guilty plea and entitle for a one third reduction of 2 months. That reduce your sentence to 4 months imprisonment. I reduce 3 weeks for the period you spent in remand. Your final sentence is 3 months and 1 week imprisonment.

12. I have considered *section 4* of the *Sentence and Penalties Act*. This is a case of exploitation and breach of trust at the upper category. Considering the principle of rehabilitation and deterrent, I find that deterrent sentence both specific and general must be imposed to denounce such conduct and as a warning to the people.

13. *Iliorepi Matarugu*, I now sentence you to 3 months and 1 week imprisonment to be served with immediate effect.

**28 days to appeal**



C. M. Tuberi

**RESIDENT MAGISTRATE**

