

IN THE HIGH COURT OF SOLOMON ISLANDS

Criminal Jurisdiction

CRC. No. 183 of 2025

REX.v. JOHN ANAK

Date of Hearing: 10th November 2025

Date of Judgment: 11th November 2025

For the Crown: Clevent M

For the Accused/Applicant: Pitabelama J

SENTENCE

Kouhota PJ

The accused was originally charged with the offence of persistent sexual abuse of a child contrary to section 142(2) of the Penal Code (Amended Sexual) offences Act 2016 as read with section 139(1) of the Penal Code (Amended Sexual) offences Act 2016. He was committed to this Court by the Magistrates Court after a short form preliminary inquiry.

On the 3rd November 2025, the DPP filed two amended information against the Accused for the offence of Sexual intercourse with a child under 15 years contrary to section 139 (1) (a) of the Penal Code Amended Sexual Offences Act, 2016. The accused pleaded guilty to both charges in the amended information and was convicted on his own plea.

The charges for which you are convicted a very serious offences under the Penal Code. They carry a maxim penalty of life imprisonment. Section 139 1 (a) states as follows “- *A person commits an offence if the person has sexual intercourse with a child who is under 15 years of age. Maximum Penalty:*

(a) If the child is under 13 years of age or the offender is a person in a position of trust in relation to the child-life imprisonment”

Under this provision there are two situations which the offender may receive the maxim penalty, first if the child is under 13 years of age and two if the offender is a person in a position of trust in relation to the child. You are caught under the first limb of this provision

The facts of this case seem to indicate that the victim may have consented to have sexual intercourse with you but even she consented, section 139 (3) clearly state that *"it is not a defence to a charge for an offence under this section to prove that the child consented to the relevant act"*. In that respect whether the complainant consented to having sexual intercourse with you is not a defence".

I had considered the aggravating factors submitted by the prosecution which includes that the complainant is a child of 12 years old. That there is a great disparity of age between you and the complainant. You are 42 years old and the complainant is 12 years old. You have used money; I believe to lure the complainant thus your action showed that you have exploited the vulnerability of the complainant to obtain sexual favours.

With regard to the prosecution submission of devastating psychological impact I not sure if that is a possibility since sexual intercourse was consensual that is why the complainant allow the accused to have sexual intercourse with her on multiple occasions of which for only two occasion you have been charged.

With regard to the mitigation factors, I take into account the following mitigation factors on your behalf, that you pleaded guilty to charges at the earliest opportunity, that you have no previous conviction and that you cooperate with the police in their investigations.

I had considered the sentencing principles and sentencing methods which the prosecution referred me to. I also take into account the sentencing submission of counsel for the defence. Counsel for the defence made a submission on the special circumstances surrounding the Accused and submit that the Court should consider a suspended sentence. Unfortunately, in sentencing the Court does not place much weight on the circumstances of the offender but more on circumstances of the offence committed. This means if there are special circumstances surrounding the commission of the offence the Court may consider a lenient sentence. The Court does give much weight to circumstances of the offender because the offender should know that if he commits the offence there are consequences.

Suspended sentence is dealt with under section 44 of the Penal Code, section 44 (3) states *"a Court shall not deal with an offender by means of a suspended sentence unless the case appears to the Court to be one in respect of which a sentence of imprisonment would have been appropriate in the absence of any power to suspend such a sentence by an order under sub section (1) of this section"*

It is not necessary for me to consider the issue of suspended sentence any further, for the reason that having considered all the circumstances of this case and the offences for which the accused was convicted I considered the sentence the Court will impose will not fall with the range which a suspended sentence is available.

After considering the aggravating facts, the mitigation factor in this case and the seriousness of the offence for which you have been convicted, the submissions of counsels and the case authorities referred to by counsel, I consider the appropriate sentence to impose for each offence should be 8 years imprisonment as the starting point.

After taking into account the aggravating factors which included that the complainant is a child 12 years, that you had taken advantage of her vulnerability with regard to money and your age disparity to the complainant I increase the sentence by 3 years to 11 years imprisonment but after considering the mitigation factors such as your guilty plea and that there was no force used in committing the offences and sexual intercourse was consensual hence there may be no lasting psychological harm suffered by the complainant. I will reduce the sentence by 2 years that makes the sentence I impose for each offence is 9 years imprisonment. I order that the sentences be served concurrently.

IRA

