

IN THE HIGH COURT OF SOLOMON ISLANDS

CRIMINAL JURISDICTION

Criminal Case Number 130 of 2024

REX -V- LESLIE POA

Date of Hearing: 18/07/2025.

Date of Decision: 28/07/2025.

Ms. Rehomora for the Crown.

Mr. Alasia for the Defendant (Absent without notice, but given chance to file written submission).

KENIAPISIA; PJ:

SENTENCE

1. Ms. Hilda Gue from Kalarikeha village, Big Ngella, Central Islands Province, complains that Mr. Leslie Poa of Hagalu village, Big Ngella, Central Province attempted to have sexual intercourse with her on the afternoon of the **3rd May 2023**.
2. Ms. Hilda Gue and her aunt Lydia Baeke paddled from Hagalu village, to the mangrove to look for shells.
3. Whilst they searched for shells, the complainant's aunt wants to smoke but she did not bring her smoking pipe. The complainant's aunt went and dropped her off at a place called Kopuria so she can walk to Kalarikeha village where she lived.
4. After the complainant's aunt left her on the shore, she put the bag full of shell on her head then she held her paddle on her right hand and walked towards Vanita area. The area is owned by Junior where some men from Hagalu village worked.
5. When she arrived at the Vanita area, she saw a man named Sasi and the defendant. She asked Sasi if the bush road leading to Kalarikeha is clean to which he said yes. The complainant left them and followed the road.
6. Upon reaching the middle of the bush road, she was shocked when the defendant came from behind, shut her mouth with his left hand and held her right breast with his right hand. She dropped the bag of shell and the paddle down. At the same time, the defendant said '

intala seleva nomoa lo here, no anyone wetem intala ya", meaning there is no one around here except the two of us.

7. The defendant held her arm tightly and pushed her towards a big tree and pressed her against the tree. She faced towards the tree as the defendant came from behind and held on tightly to her breast. At the same time, the defendant pulled her skirt and ripped it off.
8. She felt the defendant's erect penis on her back. She was very scared and cried but the defendant still held her tightly with his right hand. She struggled to push him out but he moved her out from the tree and lay her down on the ground, facing downwards. They struggled because the defendant wanted to turn her around so she could face up, but she refused.
9. The defendant then held her two arms with a strong force and tried to remove her trousers. They struggled for a while then the complainant cried and told the defendant that she will tell her father about what he did to her. The defendant eventually let go of her and stood up from her. He apologised to her and told her not to tell anyone about what he did because he will go to prison.
10. The complainant quickly stood up, picked up her skirt and the bag of shell with the paddle and walked back quickly to their house.
11. When she arrived at home, her parents were not at home so she followed them to the garden. She told her mother the same day.
12. Mr. Leslie Po (LP) is charged for attempted rape contrary to Section 136F (3) (b) of the 2016 Act. The particulars of offence alleged that LP of Hagalu village, Big Ngella, Central Province, on the 3rd of May 2023, did attempt to have sexual intercourse with Hilda Gue, without her consent and knowing about or being reckless as to the lack of consent.
13. I arraigned Mr. LP on **9/7/2025**. He pleaded guilty to the charge of attempted rape. I adjourn to allow counsel to settle the agreed facts, prepare for mitigation and sentencing submissions and listed the matter for mitigation on **18/7/2025**.
14. The maximum penalty for this offence is 15 years because the offender is over 18 years and the victim is 15 years, which is not under 15 years (Section 136 F (3) (b) of the 2026 Act). It is a serious offence because the 2016 Act was about protecting women and girls from sexual abuses. However, the Court has the power to impose a lesser sentence term.
15. The starting point sentence for unlawful sexual intercourse offences under Section 136F is 8 years according to *Sinatau, Court of Appeal, 2023*. This case falls under Section 136F. The

prosecutor misunderstood *Sinatau*, when submitting that, there is no clear sentencing tariff for attempted rape and therefore turned to comparative tariffs laid down in various High Court persuasive decisions.

16. I want counsel to stop this confusion because *Sinatau* makes it clear that the starting point sentence for unlawful sexual offences under Section 136F and 139 of the 2016 Act is 8 years in a non-contested matter for a child under the age of consent (consenting age is 16 years – *Bana -v- Regina, Court of Appeal 2013*). Here the victim was 15 years (still under the consenting age) and the offence falls under Section 136F. Hence the starting point sentence must be 8 years.

17. Then I identify the following serious aggravating factors: -
 - (i) **Isolated spot** – It was an isolated location, but the victim was courageous, resisted defendant’s sexual approaches and struggled with him making it difficult for the defendant to achieve his full intent (to have sexual intercourse with the victim).
 - (ii) **Age disparity** – Victim was 15 years and the defendant 21 years old in the year 2023. Age difference is 6 years. Defendant is an adult and should be responsible and accountable to look after the victim from this kind of offending.
 - (iii) **Psychological harm and trauma** – I must always take judicial notice of the long-term negative impacts on the victim, despite lack of evidence.
 - (iv) **Weak and vulnerable** – Defendant wanted to take advantage of the victim’s vulnerability and weak gender, being a child or young girl. Defendant and Sasi talked with the victim at Vanita. Defendant knew victim would go along on the bush track and followed after her, hoping that he would prey on her vulnerability and fulfill his sexual desires for the victim.
 - (v) **Pre-planning** – Defendant saw the victim at Vanita area. She talked with the defendant and another person called Sasi. She asked about the bush road from Vanita to her village. Defendant knew that the victim was going alone on the bush track and so he quickly hatched a plan to follow her to have sex with her in the bush. It was not a co-incidence after she talked with the defendant and Sasi.
 - (vi) **Some force** – Defendant used some force when he attempted to have sex with the victim and the victim resisted his sexual approaches (repeat paragraphs 6 – 10 above).

18. For all of the above 6 aggravating factors combined, I will uplift the starting point sentence by 6 more years (one year for each aggravating factor). Increases due to serious aggravation should be made in years and not merely in months and or weeks (*Bade, Court of Appeal 2023*). That will bring me to 14 years aggravated head sentence before mitigation.

19. I identify the following mitigation factors: -

(i). **Early guilty plea** – 30 percent reduction because of the multiple benefits (to the Court saves trial time), to the victim (saves her from the intimidating witness box) and (for the defendant it shows he was remorseful). This worked out to be 4.2 years round to 4 years.

(ii). **Rehabilitation** – I will reduce 5 years. Defendant is a young offender. He is 23 years old this year. He still has a long life in front of him. He has the potential to learn from his mistake and come out from the correctional centre a reformed person to re-integrate back into society and to become a better person. For such a young offender I consider 3 years punishment as enough time for him to receive rehabilitation and hence give a big reduction for this mitigating factor.

(iii). **First time offender with no previous conviction** – 2 years. The defendant gained my favour (balancing and exercise of discretion) because he stopped and listened to the victim's call for mercy from him. The victim cried and said she will report to her parent (repeat paragraph 9). At that time the defendant stopped. They were alone at an isolated place. The defendant could have persisted and exert control and power (noting that a male is stronger than a female) to achieve his evil desires but he chose to stop. This takes me back to **rehabilitation**. It shows to me that the defendant is a person who has the potential to learn from his mistake and to make a turnaround for the good. Defendant even apologised to the victim (paragraph 9).

20. I will sentence the defendant to 3 years imprisonment. He is entitled to pre-trial detention deductions (if any). I noted that I had to issue a warrant of arrest for the defendant before this matter could resume.

21. **Mr. Poa, I found you guilty of attempted rape premised on your guilty plea. I will sentence you to 3 years imprisonment. You are also entitled to pre-trial detention time reductions as determined by the correctional authority.**



JUSTICE JOHANA KEMAPISIA
PUISNE JUDGE