

KEVIN NGINGINA -v- THE PUBLIC PROSECUTOR

JUDGMENT

The appellant pleaded guilty to one offence of unlawful sexual intercourse with an girl of eleven years and eight months and was sentenced to two years imprisonment.

He appeals against the sentence on the ground that the learned Chief Justice took into account the prosecution version of the facts including some matters expressly denied by the appellant through his counsel.

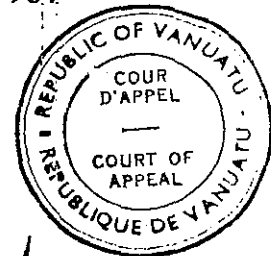
It is correct that, in the judgment the prosecution's facts are set out in detail and the accused's points are not. That is unfortunate but, having considered the facts as put forward by both, it is clear the sentence passed was proper for the offence and so it is clear the learned Chief Justice did take the matters of mitigation into account.

Bearing in mind all the mitigation urged both at the trial and before this Court, we are satisfied the sentence is neither manifestly excessive or wrong in principle or law and the appeal is dismissed.

Dated at Port Vila, this 24<sup>th</sup> day of October, 1990.

*Gordon Ward*

Mr Justice G. Ward  
Court of Appeal Judge



*E. Goldsbrough*

Mr Justice E. Goldsbrough  
Court of Appeal Judge