

PUBLIC PROSECUTOR

-v-

VICTOR TINERAN

Coram: Mr Justice Oliver A. Saksak
Mr William Falau, Clerk of Court

Counsel: Mr Willie Daniel for Public Prosecutor
Mr Hillary Toa for the Defendant

SENTENCE

Charge: Indecent Assault contrary to section 98(2) Penal code Act [CAP 135]

Plea: Guilty

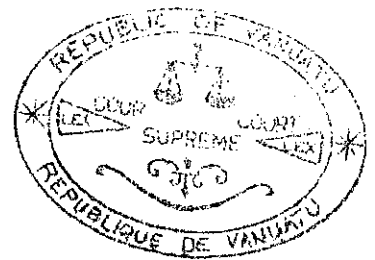
Brief facts:

The indecent took place at Tanavusvus village, South Santo on the night of 8th November 1998. The Accused and the Complainant, a girl of 14 years had been watching a video show. The complainant was returning home and the Accused went after her, held her hands and led her into the bushes and had sexual inter course with her. She complained that she felt very sore and that she saw blood. The Accused made a voluntary statement to the police on 17th December 1998 admitting the indecent assault. He admitted an attempt to penetrate the complainant's vagina but on realizing that she was too small for him he let her go.

The complainant was examined on 15th December 1998. Examination showed that hymen was no longer intact, that the vaginal wall was normal

26 MAY 1998

Ans'd



and that the cervix was also normal. The doctor's opinion was that she could have been sexually assaulted.

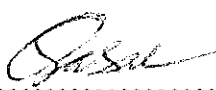
In sentencing the Accused I took into consideration the points raised in mitigation on his behalf by Counsel. The accused was a first-offender. There was no use of force or violence as it seems the complainant had expressed interest by poking out her tongue at the Accused. The Accused cooperated with police and made a full and frank admission to the police. He pleaded guilty before the Court. Counsel urged the Court to impose a suspended sentence instead of a custodial sentence.

Mr Daniel again stressed the seriousness of this offence which was becoming all too common in our communities. He submitted that women's rights are being suppressed by men committing such offences as this and it is important that Courts maintain a clear stand against such offenders.

Considering all that has been said, the most appropriate sentence the Court can impose on the Accused is 8 months imprisonment. The Court has a duty to protect women and young girls at all times. Unless the Accused chooses to appeal, his term of imprisonment is effective from today.

DATED AT LUGANVILLE, this 21st DAY of APRIL 1999

BY THE COURT


.....
OLIVER A. SAKSAI
Judge

