

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

VS.

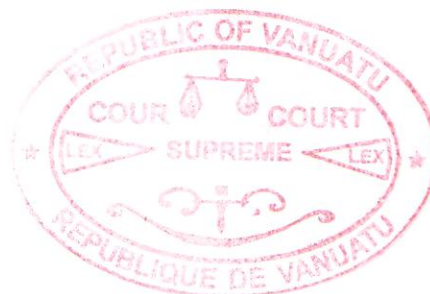
FRANCOIS ROY

Mr Justice Oliver A. Saksak
Mrs Anita Vinabit – Clerk

Mr P. Wirrick for Public Prosecutor
Ms J. Tari for Defendant

SENTENCE

1. Francois Roy you pleaded guilty on 3rd October 2011 to one count of unlawful sexual intercourse contrary to section 97(2) of the Penal Code Act Cap 135 (the Act).
2. The maximum penalty for this offence is 5 years imprisonment.
3. Section 97(2) of the Act is there to protect young girls. Your victim was only 14 years old at the time of offending. She became pregnant as a result of your sexual affairs with her. From the facts, it appears the victim was your girl friend and acts of sexual intercourse were consensual. It arose out of a romantic relationship which makes this case a little unusual. However be that as it may, section 97(2) of the Act is clear that any sexual intercourse with any girl of 14 years of age although consensual, is unlawful.
4. The relevant authorities the Court will adopt in sentencing you are the cases of Public Prosecutor v. Gideon [2002] VUCA, and Public Prosecutor v. Macreveth



[2008] VUSC 4 submitted by the Prosecutor. Defence Counsel also made reference to PP v. Gideon in her submissions.

5. To achieve the purpose of section 97(2) and to mark the gravity of your offending and to deter you and other men, the only appropriate penalty the Court will impose will be a custodial sentence.
6. The Court therefore sentences you to 3 years imprisonment as the starting point. For your early guilty plea and good cooperation with the police during investigation 3 years are reduced to 2 years imprisonment.
7. Further, due to unusual circumstances of your offending, it is appropriate to suspend your sentence of 2 years imprisonment for a period of 2 years. This sentence is imposed under section 57 of the Act and in line with the sentence of Macreveth.
8. You must understand that during those 2 years of suspension you must not commit this same offence or any other offences for which you may be charged. If you do, you will immediately be remanded in custody to serve your 2 years imprisonment term.
9. That is the Sentence of the Court.
10. You have a right to appeal within 14 days if you so choose.

DATED at Luganville this 20th day of October 2011.

BY THE COURT


OLIVER A. SAKSAK
Judge

