

(Criminal Jurisdiction)

PUBLIC PROSECUTOR

VS.

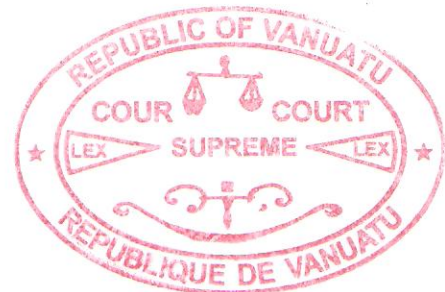
ALICK TOA

Mr Justice Oliver A. Saksak
Mrs Anita Vinabit – Clerk

Mr Parkinson Wirrick for Public Prosecutor and the State
Mrs Marisan P. Vire for the Defendant

SENTENCE

1. Alick Toa, on 10th March 2011 you were invited to plead again to one count of Unlawful Sexual Intercourse contrary to Section 97(1) of the Penal Code Act Cap 135. And you pleaded guilty to the charge. Initially you had entered a not-guilty plea.
2. This is a very serious offence because it carries a maximum of 14 years imprisonment.
3. Your victim is your step-daughter and is only 9 years old. She looked up to you for care, protection, support and love. Instead, you took advantage of her age and sexually abused her on a couple of occasions last year 2010. You threatened to “kill” her if she told about you to anyone. These are the aggravating features of your case.
4. Section 97 protects young girls such as your victim. The sentencing principle in the case of PP v. Keven Gideon is classic and is well known. Men who take advantage sexually of young girls do not deserve to remain in the community. The starting point laid down in that case is 6 years imprisonment. This Court is of the view that the only appropriate penalty it will impose on you is a custodial sentence. And due to the aggravating features of your offending 6 years as the starting point is the appropriate sentence.
5. This Sentence is to –



- (a) Mark the gravity of your offending.
- (b) The public's disapproval and condemnation of your actions.
- (c) Act as a deterrence for you and for others; and
- (d) To punish you adequately.
6. I have considered your mitigating factors such as –
- (a) Your guilty plea on re-arraignment; and
- (b) That you are a first time offender.
7. I have had regard to the pre-sentence report submitted by the Probation Officer and the submissions by defence counsel. However, there is nothing there to make your case an exceptional one to persuade the Court to consider imposing another sentencing option.
8. The case of PP v. Bohilan is distinguished and does not apply to your case. According to PP v. Frank 1/3 will be deducted from your sentence of 6 years imprisonment. That means 2 years are deducted from your mitigating factors.
9. You are therefore hereby convicted and sentenced to a total of 4 years imprisonment.
10. Your sentence of 4 years commenced on 17th December 2010 when you were first taken into custody.
11. That is the sentence of the Court.

DATED at Luganville this 23rd day of March 2011.

BY THE COURT


OLIVER A. SAKSAK
Judge

