

PUBLIC PROSECUTOR

-v-

JAMIL AHMED

*Coram: Vincent Lunabek, Chief Justice
Mr Gregory Takau for Public Prosecutor
Mr Robert Sugden for the Defendant*

Reasons for Judgment

The Defendant, Jamil Ahmed, was charged with two counts of sexual intercourse without consent, contrary to section 91 of the Penal Code Act [Cap.135].

Defendant Jamil Ahmed was discharged of the said offences on 21 June 2012 by this Court after an application for a no case to answer was submitted by the Defence Counsel Mr Robert Sugden. The reasons of the said ruling were set out below.

PROSECUTION CASE

It was alleged that on 29 November 2011, Jamil Ahmed had sexual intercourse with the complainant woman inside the massage room at Le Lagoon Hotel where he forced the complainant to suck his penis without her consent.

It was also alleged that on 11 December 2011, Jamil Ahmed had sexual intercourse with the complainant woman inside the massage room at Le Lagoon Hotel where he forced her to suck his penis without her consent.

PLEAS AND DEFENCE

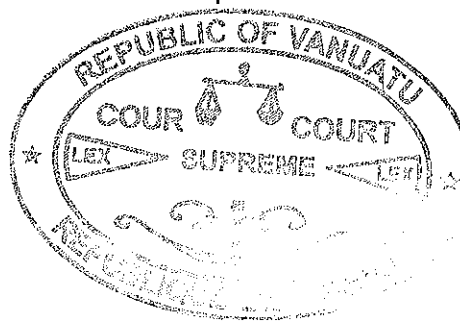
On 9 May 2012, the defendant entered not guilty pleas on the counts of offences of sexual intercourse without consent. Mr Jamil Ahmed denied the offences.

Two (2) days trial were scheduled on 20-21 June 2012. Trial began on 20 June 2012

PROSECUTION EVIDENCE

The Prosecution called the complainant woman as the only prosecution Witness. For obvious reasons, the name of the complainant woman was not to be mentioned. She will be referred to as the ("Complainant").

The Complainant gave evidence. She made a complaint against the Defendant sometime in March 2012. She made two statements to the police on 8 March 2012 and 28 March 2012.



In her evidence in Chief, she said she was 27 years of age. She was employed as a Spa therapist at LE LAGOON WARWICK HOTEL for 9 months. The Defendant was also working at the Hotel. The Defendant's wife was the manager of the Spa therapist. She remembered receiving Defendant Jamil Ahmed as a client on 29 November 2011.

Mr Jamil Ahmed rang up and made a booking with the person at the reception. She mentioned the Defendant requested her to give him a massage in the afternoon of 29 November 2011. She gave the defendant a massage on 29 November 2011 in the waxing room.

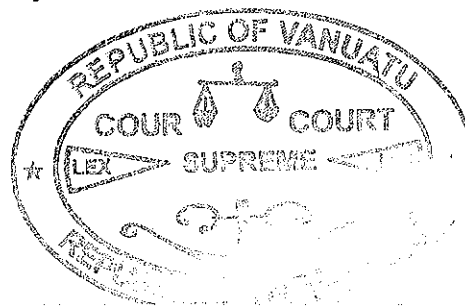
The defendant was a regular client. She did not explain the procedure to the defendant because he used to come for a massage. She gave him 5 minutes for the Defendant to remove his clothes except his underwear and to lay on the bed. She asked if the defendant was ready. The defendant told her he was ready. She noticed the Defendant did not lay down on the bed but he sat on the bed. He asked her to close the door firmly and she said she made sure the door was closed firmly as he asked her. The door was not locked. He did not say anything else after the door was close.

She said he took out 2,000 Vatu underneath the pillow and gave to her. He asked her not to tell his wife and her other friends. He held her hands and drew her to him. He held her hand so that she held her penis. He held her hand and forced her to hold his penis. He held her between his two legs so that she could not get away. She said he held her and touched her breast. He told her he liked her and loved her. He went and sat on the bed and removed his underwear.

He hold her hand and pushed it toward his penis so that she could suck his penis. He pushed her head so that she could suck him. She did not speak to the defendant. She said when he pushed her head to his penis she said she sucked his penis. She sucked him for 5 minutes. There was a clock in the room. He asked her to suck him for 5 minutes before massaging him. She sucked him for 5 minutes and spate out the sperm in a towel. She said she asked him some questions whether he truly loved his wife. She said he told he loved his wife. She asked him how many girls did he do this to them. He answered her none. She said she sucked him twice – before and after the treatment. She felt ashamed.

The second time she went outside and went hiding in the toilet because she did not want to see him coming outside after the treatment. She described that when he was pushing her head down, he held her right hand on his penis and his left hand on his testicles. She said she could not get away from the treatment because if she left, there could be a report about her leaving a treatment half-way. Her boss could get her a warning or even dismiss her from her work. She asked him another question as to why he treated or did this to her. She said he responded that she was attractive to him.

She gave evidence that she gave another massage to the Defendant on 11 December 2011. At that time, he came and gave her 1000 Vatu and did the same thing She said he removed his underwear and pushed his head so that she can suck him. He tried to removed the belt on her trousers. She told him that she had her monthly period and so she said he asked her just to suck him.



He sat down on the bed. He held her head and she sucked him. She said he told her he would watch. The door was not locked. She sucked him for 5-10minutes. While sucking the defendant, one of the complainant's friends, Charine came and asked for a guest hand bag. When she came in the witness said Mr Jamil saw her and he quickly jumped on the bed.

Charine opened the door and spoke to her. After Charine left, Jamil enquired about the hand bag and she said she told him that she was the one who took the hand back and put it into the pedicure room. She said Defendant Jamil told her they were lucky that he saw her otherwise Charine will find them together.

She said after this, she knew that her friend would suspect something. She went outside and got some massage cream. She massaged the defendant's legs. The defendant asked her to suck his penis again to release his sperm. She said she refused. She massaged the Defendant and left. She felt bad and ashamed of herself. She said she told him that she could not do it because he was her Superior and the husband of her own boss.

She ceased working at Le Lagoon Warwick Hotel on 26 April 2012.

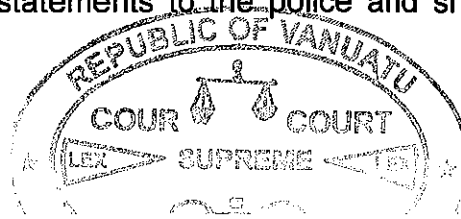
The Complainant Woman was cross-examined. She accepted she was on contract salary arrangement but not an employee. She was asked she confirmed she used a card recording her time of work, over times, holiday pay and sick pay etc...(Exhibit D1). She agreed with the way the card was used each week.

She asked and she confirmed that when she went to Spa at the beginning of the week, she would have a table with the names of therapist dates and times and Roster (Exhibit D2).

She was asked and she confirmed that when the name of Charine appears on a date marked with RDO, it means that Charine was day-off. It was shown to her and she confirmed the diary dates of Spa Center for the year 2011. She would fill it up. She will write the name and appointments of guests in the Spa diary (Exhibit D3). She was shown and she confirmed the book of Spa Voucher which was held at the reception. She confirmed that when a client used the Spa, she will fill the nature of the treatment including the charges (Exh. D4)

She was shown a Spa Voucher dated 3rd September 2011. She confirmed what was on the voucher that on 3rd September 2011, Jamil was the client and Charin gave Jamil the treatment and charged him Vatu 2,000. She was asked and she confirmed that the charges to Jamil Ahmed was half price as he was a staff of the Hotel. She was asked about her evidence in Chief when she said that on 29 November 2011 she said she gave massag to Jamil Ahmed in waxing room and she confirmed it was at 2.00pm in the afternoon. She was shown photos of rooms and she identified the waxing room as marked B on the photo. She was shown another marked C and she was asked it was easy to hear what happened inside as the room was made up of wooden frames. She said if one spoke loudly, people outside can hear who spoke. She was asked if she talked with her normal voice, people can hear her from outside.

She was asked and she confirmed that she made two (2) statements to the police on 8 March 2011 and 28 March 2011. She was asked and she said on 11 December 2011, she gave massage to Jamil in the waxing room at 11.00am o'clock in the morning. She was shown her statements to the police and she



confirmed that statement (Exh. D6). She was shown another document Spa sales voucher (Exh. D7).

The document showed the name of guest was Jamil – 90 minutes massage. The therapist was Joan. The date was 11 December 2011. The total charge was 4,500 Vatu. She accepted the signature on the document was that of Jamil. The Room No. is CT Ledge reference that Jamil is a staff of the Hotel. She was asked that the massage of Jamil on that date 11 December 2011 was given to Jamil by Joan.

She answered no, she said it was 60 minutes. She said it should be Joana. She said Joana gave it to her. She questioned and she answered once the massage was finished, the therapist came in and did her/his docket.

It was put to her that the document showed that on 11 December 2011 the massage was for 90 minutes and the person doing it was Joan. She answered no. She said she looked at the booking records all entries have been wrapped out. She was then questioned whether she was saying that the Books were made up she answered yes.

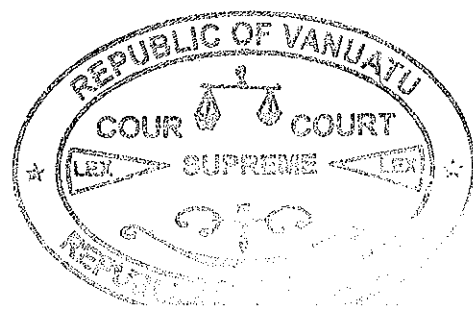
She was asked to have a look again at Spa Diary and to look at date 11 December 2011 – when she said the writings were wrapped up before. She answered she saw something because she remembered Joana was not day off. It said the name of Joan should be where the name of Joana was. Joan was day off on 11 December 2011.

She was challenged that if she was at the reception she received a cancellation of appointment and she would wrap out the name. She answered that there was a fee payable. She must write cancellation on the side and she brought it to the attention of her boss. It was put to her and she confirmed that the column showed to her was for Jaon as she was day off.

She was challenged as to whether the person who was at the reception wrote Joan thinking Joana or not write her name (name of witness). She answered that the handwriting was that of Rahila but not Charin's handwriting. She was again questioned as to why Rahila put the name of Joana. She answered she can take another docket to make up this.

It was put to her whether Rahila took a docket from another book she answered yes. She was then shown another document which was the roster for the week 7-13 December 2011 (Exh. D8). She was challenged on her evidence when she said that Joan was day off while the document showed Joana was day off. She answered that even if in the roaster staff swapped their date she said she clearly remembered Joana was working that date.

She was shown the Payroll number of Joan which recorded that Joan Obed worked 6 Hours on 11 December 2011 (Exh. D9). It was put to her that she lied from beginning to now about her evidence. She answered no. She said she have being telling the truth. She was asked to look at the spa diary of date 11 December 2011. It was a Sunday. The Spa diary recorded that she had a hair braiding at 10.00am o'clock on 11 December 2011. She responded no. She said it was wrapped out. She said the writing was that of Rahila.



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She was asked to mark with a blue pen colour everything she said were wrapped up or erased on the Diary page for 11 December 2011 (Exh. D10).

She was taken to her evidence that on 29 November 2011, when entered the room, she saw Jamil sat on the bed. She confirmed that. She was asked and she confirmed that she said Jamil asked her to ensure that the door is firmly closed.

She was given a copy of her statements to the police and she was asked to show the Court where in her statement what she said in court was in her statement. She responded that she did say but the police officer who took her statement did not write down.

She was asked if the police wrote down wrong thing too. She answered the police had to write it down. She was remanded about her statement which was that she went and checked if Jamil's wife was there at the reception because she was off. She confirmed that by saying yes.

She was asked that the Police wrote what she told them. She replied this is what she told the police. She was asked she told the police that she went to check from the reception. She confirmed that by saying yes.

She was challenged and it was put to her that she did not tell the Court this morning in her evidence that she told the police that she went to check if Jamil's wife was at the reception. She answered she realised that she did not mention this morning but she said what she put in her statement was true.

She said Jamil's wife was off as on Public Holiday, Managers did not work. This was 11 December and they were talking about 29 November 2011.

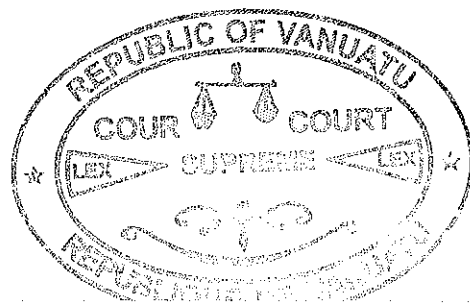
She was then shown 29 November 2011 diary. It was recorded Charin was day off. She responded Charin was not day off at that time. She was given the roaster document of week 23-29 November 2011 (Exh. D11).

She was asked if this document was also a fabrication. It was recorded that Charin was day off on 29 November 2011.

She answered that here it was written Charin was off but she said she remembered she was at work on that date. She was shown the docket of Joan. Joan stopped at 28 November 2011. She was asked if she thought that she was working on that date. She answered yes. She said she remembered Charin spoke to her at that date. She said one of the staff spoke to her at the reception. She said she noticed in the book records that entries where Mr Jamil came for massages were wrapped up.

She was shown to the expenditure document of the Hotel Resort and the name of Jamil did not appear on the Spa. She answered she stuck to her story.

It was put to her that Jamil did not have a massage on 29 November 2011. She said she remembered clearly, she gave a massage to Mr Jamil on 29 November 2011. She was remanded of her evidence she said Jamil held her hand and put it on his penis. She confirmed by saying yes.



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She was asked and she confirmed he was still sitting on the bed. She was asked about her evidence she said he forced her to hold his penis. She answered yes. She was asked if she tried to pull her hand out. She answered he was holding her hand. She tried and he was blocking her body with his leg.

She was asked why she did not cry out. She answered if she did so, people would have asked what was wrong. She felt ashamed. She said he told her not to shout. She said the music in the room is not too loud and if she cried out someone could hear her.

She was asked that she said he held her breast and told her that he liked her. She confirmed this by saying yes. She was asked that she said Jamil then went and laid on the bed and took off his underwear. She confirmed this by saying yes. She was asked at what stage Jamil got up and removed his underwear. She answered after he held her breast he went and sat down on the bed. She specifically said that originally he was sitting on the side of the bed. He then laid down on the bed.

She was asked to look at her police statement and to show where she told the police that Jamil held her breast, removed his underwear and laid on the bed. She answered it was not in her police statement. She was challenged that there was no mention, that Jamil grabbed her with his two (2) legs. She answered no but she said she told the police.

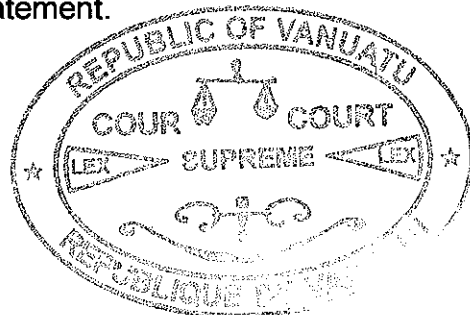
She was asked that she said Jamil told her that he liked her but it was not in her statement to the police. She confirmed it was not in her statement.

She was asked she said she could not get away he was holding her head. She confirmed. She was asked and she confirmed she said he held her right hand on his penis and his left hand was on his testicles. When pressing with questions to clarify which hand hold the penis and her head, she answered he used his right hand to hold his penis. He held her hand to hold his penis and he remove his hand from her right hand and put his right hand on her head and held her head with his right hand. It was put to her that she made up her answer. She answered no it was true.

She was remanded of what she said earlier when she said he sat on the bed and removed his underwear and she was asked to explain how. She answered he held her hand. He sat on the side of the bed holding her hand. He removed his cloth. He pulled her down close to him. She was asked that now she said he stood up to remove his cloths. She answered he sat on the bed and took his pant off and laid on the bed.

It was put to her that was not what she said earlier. She said she was sure of what she said.

It was put to her as to how police could have written down that he sat on the bed, pulled out his trousers. It was suggested to her that this was different from what she said earlier. It was put to her that what she told the Court earlier in her evidence in the morning was not in her police statement.



She was asked as to why there was a difference. She answered she told everything to the police as she said there were something missing. It was put to her that she was asked about what police wrote down in her statement which was different from what she told the Court this morning in her evidence. She was asked to explain why there was a difference. The witness did not answer.

It was suggested to her that the reason was that she lied to the police when she made her statements and today when she gave her evidence in court she denied that. She was asked that she said he pushed her head toward his penis so that she could suck him. She answered yes. She was asked if she sucked him. She answered yes he hold her head. She was asked to why you open your mouth. She answered because he asked her to do so. She was asked she did what she did because he did ask her. She answered yes.

She was asked that on 11 December 2011, She saw that he wanted to do the same thing again. At that time she refused because he was her superior and her husband of her boss – she answered yes.

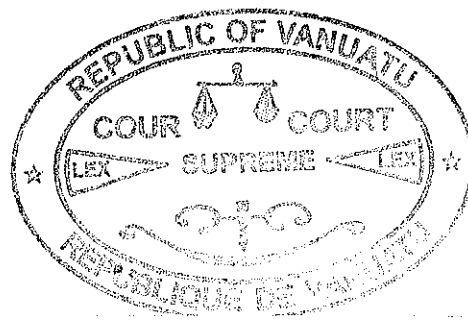
She was questioned as to why, she did not refuse in the first place. She answered that on 29 November 2011, he was holding on to her with his legs. But on 11 December 2011, she finished the massage and she could go away. She was asked again she said she sucked him because he asked her. She confirmed that. She was asked to explain why it was not in her police statement. She said she made the statement and she thought there might be face to face with Mr Jamil and that would be the occasion she would say everything that happened.

She was asked and she confirmed that she complained to the police for Police to prosecute Jamil. She was questioned as to why she did not tell the police everything. She answered that the reason was because she knew that there was certain thing that if she mentioned them Jamil will say that they were not true. She was asked if she knew what she mentioned were true. She answered no.

It was put to her she said she sucked him for 5 minutes because there was a clock in the room. She confirmed that and she pointed where the clock was. She was asked if she checked the clock when she was doing what she said Jamil told her to do. She answered that she checked the clock. She said Jamil also watched the clock. She confirmed after 5 minutes she did the massage that was the reason why she watched the clock. She confirmed that it happened like this.

She was asked and she confirmed she massaged him for 90 minutes. She said she sucked his penis again. She said he asked her to suck him. She did not like it. She was asked and she said she did not bite his penis. She was asked she said she asked him he liked his wife and he said yes. She was asked she said she asked him if she did this with other girls he said no. It was put to her what she said were not in the police statement. She admitted they were not in her statements to the police.

She was asked she said why he did this to her, she said he told her she was attractive to him. It was put to her that it was not in her police statement. She admitted it was not in her police statement.



She was questioned as to whether it was true that he said she was attractive to him – she answered yes. She was asked she said she felt ashamed and went hide in the toilet she answered yes.

She was asked if on 11 December 2011 she massaged him again. She answered yes because Joana should massage him. Joana refused. She was asked if at that time he did held her and blocked her with his leg. She answered yes he did.

It was put to her that before Jamil came on 11 December 2011, and held her, she saw the book. She answered no. She said he called and made a booking and he asked Joana for a massage and when he arrived, Joana refused. She was asked why on 11 December 2011, she did not tell him that she could not do that to him because he was her boss and husband of her boss; why she did not tell him in the first place before she entered the room. She was asked to answer. She kept silence. She did not provide an answer.

It was put to her that on 11 December 2011, she was not concerned about anything because there was nothing happened before between her and Jamil. She answered if she said anything, he would have forced her to suck him. It was put to her again and she said she did not imagine that he would do the same thing again. She said when she went in the room he gave her 1,000 Vatu and told her not to say anything.

She was challenged she said no on the second time after 60 minutes but she did not say no to him before and why she did not think that he will force her on the second time. She gave no answer to this question.

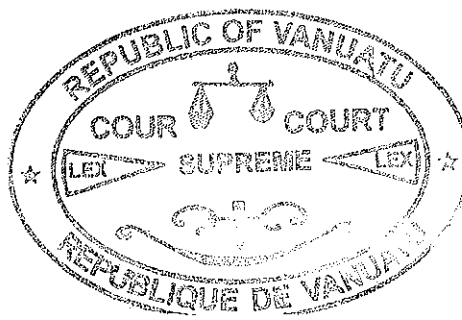
It was put to her she said she was afraid to go into the room because she was afraid he would force her. She confirmed by saying yes. She was asked what made her think he will force her because he was at the reception. She said he was already in the room.

She was questioned she was not saying she was afraid. She was asked why she went into the room because she said she was afraid of him. She answered as she explained earlier, Joana referred him to her to massage him. She said he could have reported her to her boss.

It was suggested to her that she was more afraid of that than what she described. She answered yes she did not want to lose her job. It was suggested to her why she did not tell her boss that she was afraid of massaging Jamil because it was Jamil who would have problem. She answered because her boss would never believe her.

It was suggested to her on 11 December 2011 she was not afraid at all and Jamil did not have any massage at all from anyone on 29 November 2011. She answered on 29 November 2011, Jamil had a massage and she said his wife wrapped out the booking of Mr Jamil and his wife was the boss.

It was put to her that the other reason was that on 11 December 2011, she did not massage Jamil but Joan did. She answered the hand writing on the record was Mrs Jamil's.



She was asked on 11 December 2011 she was afraid as she recalled of what happened on 29 November 2011. She was asked she made a statement on 8 March 2012 (Exh. D13). It was pointed to her that her statement to the police on 8 March 2012 was about something alleged to happen on 13 November 2011.

She answered this was different. She wanted to say everything on 8 March 2012 but she was afraid. She said the statement showed her filled a form obtained by Charin and lodged at the police. She said she knew Charin would read it so she did not mention anything but when she made statement on 28 March 2012, she spoke of the incidents of 29 November 2011 and 11 December 2011.

She said because Charin was supposed to give this statement to the police she said she did not say everything. She said she decided to go herself to the police that was where she made her statement.

It was put to her that what she said on 8 March 2012 were lies. She answered she did not go into the details of what happened. She was asked if she mentioned what happened to her friends she answered no.

It was put to her that she made statement of what her friends told her. She answered that her both statements were true. She said her 28 March 2012 statement, she wrote it. The one on 8 March 2012, police did it.

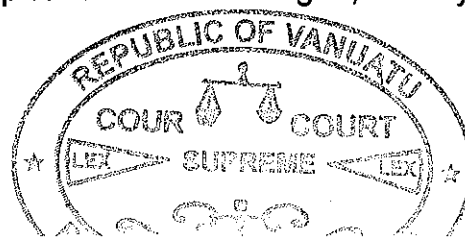
It was put to her that what she said in her 8 March 2012 she gave details. The police wrote her statement of 8 March 2012. She was shown a document showing wedding on 15 November 2011 and 19 November 2011. It was put to her that there was no wedding on 29 November. (Doc. ID2). She answered they were deleted in the record.

It was suggested to her that the document showed that on 13 November 2011 Jamil did not have a massage. She answered she remembered giving him a massage on 13 November 2011.

The complainant was re-examined. She clarified that Rahila was the wife of the accused Mr Jamil and she was the boss of Spa. She was asked to explain why some part of her evidence in Court was not in her statement to the police. She explained that her statement of 8 March 2012 Charin took it to the police. She did not want to provide the details because she knew Charin will read it. But for her statement of 28 March 2012, she went to the police that was when she gave the details of what happened on 11 December 2011.

She was asked to clarify between what she said in Court and what she did not said in her statement, which one was true. She said what was in the police statement and what she said in Court together were true.

She was asked to look at the Diary Book. She was asked who was responsible for marking entries in the Book. She answered the person who was at the reception. As to why entries were written on pencil, she explained that sometimes a guest might change a booking or cancel it. She said Rahila had access to the Book. As to the entries of 29 November 2011, she said some changes have been made. Some bookings were wrapped out and other treatments have been entered. As to the entries of 11 December 2011 there were some changes in the booking and also the two(2) names of the therapist have been changed, namely Joana and Joan.



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She explained that document Exh. D7 was a docket/receipt of whoever received a treatment at the Spa. After the treatment, the patient must sign this receipt. As to the docket of 2011, she said the handwriting was for Rahila. As to the treatments, she said she knew that she was the one who made treatment to Mr Jamil that day. She said this receipt could have been written into another Book or docket Book. She explained that she could take another docket and wrote the treatment on it and issued that as a receipt.

As to document Exh. D8, she said this was called LOSA. When Rahila made roster Rahila took the roster to them. Rahila placed the document in the room called Bala. She said this document was displayed in that room. There was only one signature on it which was that of Rahila. She said she remembered at that time Charin was on duty and so was Joana. She said she believed there were changes made to the Roster.

As to document Exh. D11, she said she remembered on 29 November 2011, Charin was working on that day. She said the Roster was posted to the wall with the signature of Rahila. She said further to that the days off have been changed around.

On the Document marked ID2, she said this was a list of weddings. On 29 November 2011, she clearly remembered that there was a wedding on that day. She added that she saw nothing was entered for 29 November 2011 but she did clearly remember that there was a wedding.

She was asked about her evidence of 11 December 2011, she said when she came inside, he was sitting on the side of the bed. He held her between his legs and he laid down. He removed his pant. He held her head and bent it to his penis so that she could suck it. She explained that once she went inside a spa room, she was not allowed to come outside until the treatment was finished and completed.

That is the prosecution case and the end of the prosecution evidence.

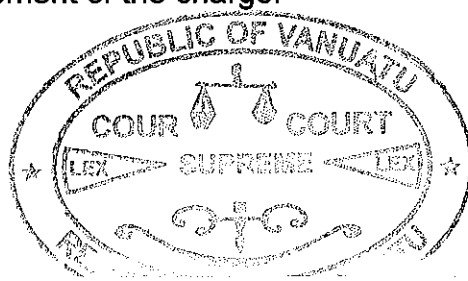
APPLICATION OF NO CASE TO ANSWER.

Mr Robert Sugden on behalf of the Accused Jamil Ahmed, made an Application for no case to answer pursuant to section 164 of the Criminal Procedure Code Act [Cap 136].

Mr Sugden submitted that the prosecution has called only one witness. She was the Complainant. There was no other evidence to corroborate the complainant's evidence as the offences were rape charges laid against the accused in this case.

Mr Sugden referred the Court to the Halbury's Laws of England 4th Edition, Vol 11 at Paragraph 290, there are two bases upon which a Court can find that there was no case to answer.

- (1) Where, on the best possible view of the evidence for the prosecution there is no evidence to prove an essential element of the charge.



- (2) Where the prosecution evidence is so manifestly unreliable no jury could rely on it.

Mr Sugden submitted that the second applies in this case because;

- (1) It is very difficult, following cross-examination not to conclude that the only prosecution witness was lying in very important or most respects that are crucial to the charges or at least her evidence is highly suspect.

- (2) This case is of 2 counts of rape and there is no corroborate evidence.

At the very least, Mr. Sugden submitted that the prosecution witness was filled with internal conflict that she was unable to explain.

Mr Gregory Takau submitted in response that there is a case made out against the accused Jamil Ahmed. There was no need for corroboration.

COURT CONSIDERATIONS:

On 21 June 2012, I considered the submissions of no case to answer. I considered the evidence of the prosecutrix. I considered the evidence that the accused was charged with two(2) counts of sexual intercourse without consent, contrary to s.91 of the Penal Code Act and there was no corroborate evidence.

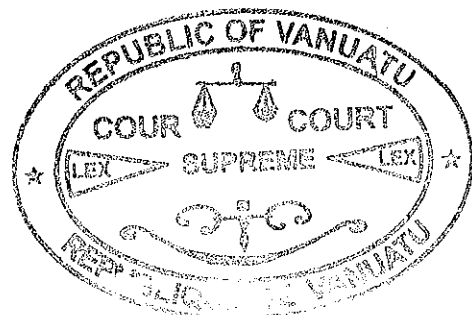
I accept the submissions of Mr Sugden on behalf of the Accused that it is well established law that a judge must direct the jury that it is dangerous to convict in rape case on the uncorroborated evidence of the prosecutrix alone.

This necessity for corroborate evidence is peculiar to sexual intercourse without consent case (rape) and other sexual offences for a number of reasons canvassed in the many authorities that establish this requirement (see for exemple: PP -v- Mareka [1992] VUSC 10; [1980-1994] Van LR 613 (30 December 1992).

Further in considering the evidence of the prosecutrix, I found that some of her evidence in court was not equate to her evidence in the police statements. When she was asked to tell the court what was true, she responded that what was in the police statements and what she said in court were true.

This could not be a rational explanation as what she said in her statement to the police were in some degree different or she decided not to mention some aspects of what she said in her evidence in Court in her police statements for reasons only known to her. Her own explanation for doing so was unsatisfactory as it was clear that she refused to look at the internal conflicts, she was confronted with.

Whether she lied or not she must be regarded as an unsatisfactory witness. The Court came to that conclusion and in such a circumstance, lack of corroboration is sufficient to put the case at rest. This was not such a case where the strength of the prosecution evidence warrants for the nature of warning to be given by the Court and allow an accused person to answer to the allegations of sexual intercourse without consent (rape).



In the case as the present, it is the duty of the Court to stop the case there and then as there is no case to answer by the Accused.

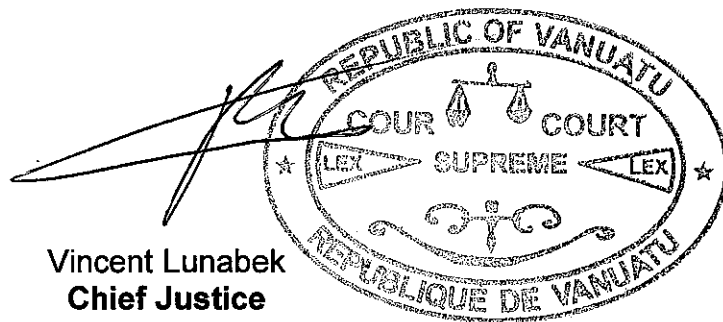
Consequently, the Court made the following orders on 21 June 2012:

ORDERS

1. There was no case of sexual intercourse without consent, contrary to section 91 of the Penal Code Act [Cap 135] to be answered by the accused, Jamil Ahmed.
2. Defendant Jamil Ahmed was discharged of two(2) separate counts of Sexual Intercourse without consent, contrary to s. 91 of the Penal Code Act charged against him in the Information dated 8 May 2012.

Dated at Port Vila, this 19th day of August 2013.

BY THE COURT



Vincent Lunabek
Chief Justice