

IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU
(Criminal Jurisdiction)

Criminal
Case No. 21/972 SC/CRML

BETWEEN: Public Prosecutor

AND: Dominique Mera

Date: 21st April 2021
By: Justice G.A. Andrée Wiltens
Counsel: Ms M Taiki for the Public Prosecutor
Mr J Garae for the Defendant

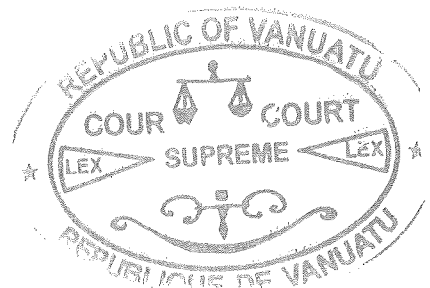
SENTENCE

A. Introduction

1. Mr Mera pleaded guilty to unlawful sexual intercourse with a child between the ages of 13 and 15.

B. Facts

2. On 15 March 2020 JB, then aged 14 years 7 months, was walking home at around 6.30pm. Mr Mera then approached her and told her they would go and drink at the beach. JB was to tell anyone they met on the way that she was with Remy.
3. Mr Mera pulled JB down to a beach and forced her to drink a bottle of alcohol which made her feel drunk. Mr Mera then removed her trousers and pushed JB to lie down on the sand. Mr Mera then had sexual intercourse with JB.
4. JB initially told her family/friends she had been drinking with Remy. Later she told the truth, and when that was followed up by her Chief, Mr Mera admitted what he had done. JB was medically examined. Apart from a small abrasion, she had a perforated hymen. The Doctor concluded JB was "likely sexually assaulted".
5. When interviewed by the police, Mr Mera admitted having sexual intercourse with JB. He denied giving JB alcohol and explained the sex was consensual.



C. Sentence Start Point

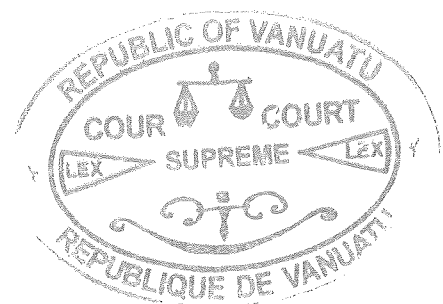
6. The sentence start point is assessed by having regard to the maximum penalty available for this offence and factoring in the mitigating and aggravating aspects of the offending.
7. The maximum sentence available for unlawful sexual intercourse with a child between the ages 13 and 15 is 15 years imprisonment.
8. There are no mitigating aspects to the offending. I do not accept Mr Mera's claim that he did not give JB alcohol, or that the sexual intercourse was consensual. It is however aggravating that JB was plied with drink, forced to tongue-kiss Mr Mera, and additionally subjected to her breasts being sucked and his finger inserted into her vagina. Mr Mera then inserted his penis into JB's vagina and ejaculated inside her, exposing her to sexually transmitted disease and unwanted pregnancy.
9. I set the start point for the offending at 6 years 6 months imprisonment.

D. Mitigation

10. Mr Mera pleaded guilty at the earliest available opportunity. That indicates he accepts his wrongdoing. It is also a saving of Court time and expense. However the biggest aspects of this is that the prompt plea spared JB the necessity of having to give evidence against Mr Mera before a number of strangers.
11. For his prompt plea I reduce Mr Mera's sentence start point by 33%.
12. Mr Mera is 34 years old, married with a 3 year old son. He runs a piggery and does some gardening to sustain his family. He does construction work, and takes care of his elderly mother. He has no previous convictions and claims to be remorseful.
13. He has not participated in a custom reconciliation ceremony, but told the PSR writer that he was willing to.
14. For Mr Mera's personal factors I further reduce the sentence start point by 3 months.


E. End Sentence

15. The end sentence I impose is 4 years imprisonment. It is to run from 16 March 2021.
16. The sentence cannot be suspended. The seriousness and the nature of the offending militate against that.



17. Mr Mera has 14 days to appeal the sentence if he disagrees with it.

Dated at Luganville, this 21st day of April 2021
BY THE COURT


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Justice G.A. Andrée Wiltens

