

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

**Criminal
Case No. 23/948 SC/CRML**

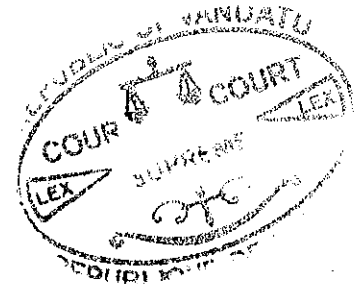
BETWEEN: Public Prosecutor

**AND: Harry Job
Defendant**

Date of PLEA: 10th July 2023
Date of Sentence: 20th July 2023
Before: Justice Oliver Saksak
In Attendance: Mr Gregory Simeon for Public Prosecutor
Mr Steven Garae for the Defendant

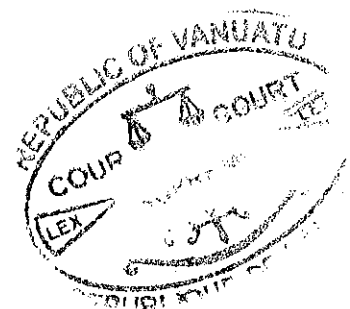
SENTENCE

1. Harry Job pleaded guilty to two counts of acts of indecency without consent contrary to section 98(a) of the Penal Code Act, as amended. He is for sentence today.
2. This is a serious offence as it carries the maximum penalty of 7 years imprisonment.
3. The defendant is 49 years old and his victim is 17 years old and a student. The defendant is the victim's step-father. In the night of 26th March 2023 at their house at Fanafo area the complainant returned home from a church program around 11:00- 12:00pm. Her step father was still awake and he called her to come sit close to him. He hugged her and praised their church for the good ministry they were doing. Then he opened the door to an empty room and told the girl to go in and sleep. She entered and the defendant followed her and told her he would teach her what it is like to be in a relationship. The defendant was now forcing the girl to turn to him but she turned towards the wall instead. He then grabbed her and started to kiss her but she kept refusing him and started crying at that point. He asked her how she felt and she said nothing. The defendant then reached out to remove her t-shirt but she kept pushing his hands away. He persisted and managed to remove her t-shirt and then started squeezing and sucking her breasts. He then proceeded to touch her skirt and trying to undress her but she kept pushing his hands away. She was crying. The defendant touched the girls' vagina through her clothing but did not insert any fingers. The girl



then leaped out of the bed, grabbed her phone and ran away. She did not sleep that night until 4:00am when she went out to a relative and reported the incident.

4. The matter was reported to the Police who investigated and questioned the defendant. He made admissions.
5. This is just another case of a step-father taking advantage of a young girl who is his step-daughter. His actions were a disgrace, showing him to be selfish with a depraved mind.
6. There are no mitigating circumstances. He simply took advantage. He forfeits the right to remain in the community.
7. The defendant was charged with the same offence under two separate counts which was inappropriate. His actions were done in a package at the same time. The act of touching the victim's vagina on her clothing occurred immediately after the sucking of her breasts. Therefore his earlier actions were further aggravated by the touching of the girl's private part. It did not warrant the laying of a separate charge under Count 2.
8. The defendant will therefore be sentenced only in relation to the charge in Count 1.
9. I have seen and read the submissions of the Prosecution and defence counsel. This case is almost similar to that of Tangiat's case [2014] VUCA 15 except that case involved the touching of breasts on the outside of her clothes. This case is slightly more serious in that it involved other actions such as hugging and sucking of the breasts, albeit in the name of educating the young girl who was obviously unwilling to engage.
10. I treat the touching of the victim's vagina over her clothes as an aggravating feature rather than a separate offence as it was done in the course of committing the act of indecency of sucking of the breasts.
11. I consider that in the circumstances, a global figure of 2 years imprisonment as the starting sentence is appropriate.



12. I therefore convict and sentence the defendant to a start sentence of 2 years imprisonment for both offences charged under count 1. There will be no separate sentence for the charge in Count 2 as it is covered within the sentence for the charge in count 1.
13. In mitigation I accept that the defendant is entitled to 1/3 reduction for guilty pleas which is 8 months, leaving the balance to be 16 months imprisonment.
14. I note from his pre-sentence report that he is a 49 year old man, a first time offender with good clean record and a good work and community history. He shows remorse and regrets his actions but has not performed any custom reconciliation. He takes responsibility by accepting to be held in custody on remand since 11 April 2023, some 3 months and 9 days to date. For all the these together I reduce his balance of the sentence by 4 months. His end sentence is therefore 12 months imprisonment.
15. I Order that 8 months of this 12 months imprisonment sentence be suspended on good behavior under section 57 of the Penal Code Act. He has already been in custody since 11 April 2023 for a period of 3 months and 9 days to date. He has another 21 days to complete and will be released to serve the other 8 months sentence (as the balance) in the community. The portion of the sentence shall be suspended for 2 years. That means the defendant must not commit this offence again or any other offences for which he would be charged and convicted. If he does, he will go to prison for 8 months.
16. Finally in addition, I sentence the defendant to community work for 40 hours to complete within 12 months. He must report to the Probation Office within 72 hours for further guidance and supervision for this part of the sentence.
17. That is the sentence of the Court. There is a right of appeal against this sentence within 14 days.

DATED at Luganville, this 20th day of July 2023

BY THE COURT

OLIVER A. SAKSAK

Judge

