

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

**Criminal  
Case No. 23/1074 SC/CRML**

**BETWEEN: Public Prosecutor**

**AND: Roma Malalo  
Defendant**

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

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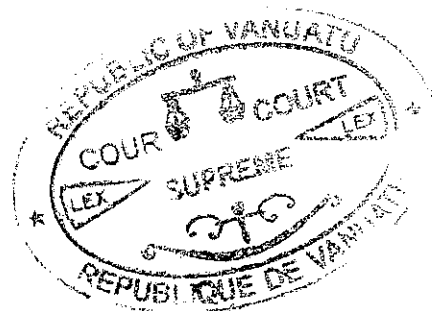
**SENTENCE**

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1. Roma Malalo pleaded guilty to one charge of sexual intercourse without consent and is here for sentence.
2. This is a very serious offence as it carries the maximum of life imprisonment.
3. The facts are simple. The defendant is a 29 year old farmer from Vao, Malekula. Sometimes in 2019 he was drinking alcohol with his friends. At around midday he returned to his house and saw the complainant alone in the house. He told her not to call out to anyone as he removed her clothes and undergarments, made her lie down naked and then inserted his penis into her vagina. He then left and rejoined his friends with their drinking spree. The complainant was left alone with none to talk to. She became pregnant as a result of the sexual intercourse.
4. The defendant is the victim's uncle. The victim was 19 years old. In 2018 her mother chased her out of the house. Her uncle then took her to live with him. She cooked, washed and did all the house chores without complaining.
5. The girl's only reward for all her good work was undeserving and selfish sexual gratification from her uncle. The obvious result was teenage pregnancy giving birth to a baby girl.



6. This defendant had taken advantage to sexually abuse his niece, a disgraceful and unwarranted sexual behavior that deserves due punishment according to law.
7. The defendant deserves only a custodial sentence to deter him and others, to reflect the gravity of his offending, to show public condemnation for his actions, to punish him appropriately, and to protect the young, weak and vulnerable members of the society.
8. I have read the submissions of both the Prosecution and defence counsel for the defendant. The cases of PP v Gideon [2002] VUCA 7, PP v Scott [ 2002] VUCA 29 and PP v Ali August Crc 14/2000 are well known and classic cases. I adopt and follow the sentencing guidelines in those cases in sentencing the defendant.
9. Taking all the aggravating features together with the seriousness of the offence committed, I adopt a global start sentence of 6 years imprisonment.
10. In mitigation I accept he is entitled to 1/3 reduction which is 2 years. The balance of the sentence is 4 years imprisonment.
11. I have read his pre-sentence report showing his personal history and character, his previous clean record, his performance of reconciliation indicating remorse. I also noted the defence submission that some consideration be made for the delay in prosecuting the defendant's case. For all these factors together, I deduct 12 months or 1 year leaving the balance of the sentence to be 3 years imprisonment.
12. Roma Malalo you are now convicted and sentenced to an end sentence of 3 years imprisonment for a charge of sexual intercourse without consent.
13. This sentence is backdated to 31<sup>st</sup> May 2023 when he was first remanded into custody so he does not lose his parole privilege.



14. This sentence will not be suspended as there are no factors warranting suspension.
15. This sentence is to be effective immediately. There is however a right to appeal this sentence within 14 days.

DATED at Luganville this 20<sup>th</sup> day of July 2023

BY THE COURT

