

PUBLIC PROSECUTOR
v
MANASEH LULU

Date of Plea: 14 April 2025
Coram: Hon. Chief Justice Vincent Lunabek
Counsel: J Tete for the Public Prosecutor
JS Garae for the Defendant
Date of Sentence: 25 April 2025

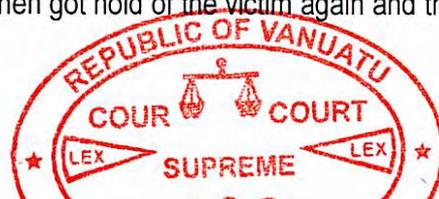
SENTENCE

I. Introduction

1. Mr Lulu has pleaded guilty and accepted the summary of facts relating to one (1) charge of act of indecency with a young person, contrary to Section 98A of the Penal Code Act [CAP. 135]. The maximum sentence for this offence is 10 years imprisonment.

II. Facts

2. The girl complainant (victim) was 12 years old at the time of the offending.
3. The defendant Mr Lulu and the victim are related. Mr Lulu is the brother of the victim's grandfather.
4. On the 1st of May 2024, the victim went to his brother's house to get a string for the grass cutter. She reached her brother's house but he had left to go throw the net at the water. She then got the string of the grass cutter from her niece and she stayed and watched a movie on her brother's phone. After watching the movie, she left and walked back home.
5. On her way back home, she followed a bush road where she met Mr Lulu. Mr Lulu got hold of the victim but she managed to run away. Mr Lulu then got hold of the victim again and this time he held



her tightly. Mr Lulu stood in front of her and then touched her vagina and breasts over her clothes and the victim cried.

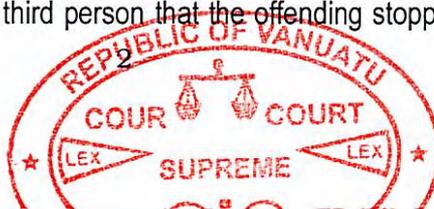
6. It was while the victim was crying that a person by the name of Andrew came and saw them that he swore loudly which caused Mr Lulu to let go of her and run away. The girl victim then went and hold Andrew tightly and cried. Andrew told her to go and see her mother at home. When the victim reached the house, she saw her father and he enquired as to why she was crying. She told her father of what had happened. This was the first time that Mr Lulu did this to her.

III. Aggravating and Mitigating Factors of the offending

7. There are no mitigating factors to the offending, but the following aggravating factors exist:
- There is a breach of trust. Mr Lulu is the brother of the victim's grandfather; she should feel safe whenever she is with him but that is no longer the case after this offending;
 - There is a 48-year age differential between the age of Mr Lulu and that of the victim at the time of the offending;
 - There is a psychological effect of the offending on the victim including the loss of innocence;
 - Loss of dignity of the girl victim; and
 - The girl victim is vulnerable given her age at the time the offending occurred.

IV. Sentence Start Point

8. The sentence start point for this offending, as required to be identified by Public Prosecutor v Andy [2011] VUCA 14 and Philip v Public Prosecutor [2020] VUCA 40, is set at 1 year imprisonment. I regard this as very reasonable based on Gigina v Public Prosecutor [2017] VUCA 15 and Tangiat v Public Prosecutor [2014] VUCA 15.
9. The case of Public Prosecutor v Kai [2024] VUSC 163 is relevant and has similar factual situation with the present case. As a matter of comparison, in Public Prosecutor v Kai, the defendant was charged with one count of act of indecency with a young person. The victim was walking home from her uncle's house when the defendant came across her and pulled her by her clothes and asked her if he could have sexual intercourse with her but she refused. The defendant pushed his hand and touched the victim's vagina and fondled (groped) her breast whilst trying to kiss her and all of these took place whilst the victim had her clothes on, thus, it was through clothing. Like in the present case, there was intervention by another third person that the offending stopped. In that case, the judge



imposed a sentence start point of 1 year imprisonment and then gave an end sentence of 6 months suspended for 12 months.

V. Personal Factors

10. Mr Lulu is 60 years old. He will turn 61 this year. He has been married. His wife died in 2023. He is originated from Tassiriki Village, South Santo. He had 4 grown up children who are all married with children. Mr Lulu is a farmer. He sells coprah and kava to sustain his living with his family. He has a canoe and he often fished to sustain his living.
11. I consider his early guilty plea and I reduce his sentence by 20%.
12. Mr Lulu is a first-time offender. He has no records of previous convictions.
13. Mr Lulu informed that he deeply regretted what he did to the victim girl who is his close relative. He was remorseful.
14. Mr Lulu said he had performed two custom reconciliation compensations to the victim girl. The first was by the exchange of money (VT5,000) and a pig to the victim and her family on 2nd May 2024. His church pastor, Pastor Walu offered a prayer after he had handed over the custom items to the victim and her family. The second was made by Mr Lulu by giving VT20,000, two bundles taro and a mat.
15. I reduce Mr Lulu's sentence start point further by 4 months to reflect on his other personal factors.
16. The remaining balance of Mr Lulu's sentence is 6 months imprisonment.

VI. End Sentence

17. It is noted that Mr Lulu had already spent time in pre-custodial period from 11 October 2024 to 24 October 2024 – (a total of 14 days which is equivalent to an effective 28 days).
18. Mr Lulu's end sentence is 5 months and 2 days imprisonment.

VII. Suspension

19. In this case, I consider the nature and circumstances of the offending, the character of the defendant as the offender, I suspend his imprisonment sentence of 5 months and 2 days for a period of 12 months. During the period of suspension, Mr Lulu shall not re-offend. If he re-offends during that



period, the sentence of 5 months and 2 days imprisonment will be re-activated against him in addition to the new charge laid against him.

VIII. Other

20. Mr Lulu has 14 days to appeal this sentence if he disagrees with it.

DATED at Luganville, Santo, this 25th day of April, 2025.

BY THE COURT

Hon. Chief Justice Vincent Lunabek

