

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

Criminal
Case No. 25/138 SC/RML

BETWEEN: PUBLIC PROSECUTOR

AND: GREM TASERU
Defendant

Before: Justice Oliver A. Saksak

Counsel: Ms Laura Lunabek for Public Prosecutor/ Respondent
Mr Edward Nalyal for Defendant/ Applicant

Date of Hearing: 20th February 2026

Date of Oral Decision: 20th February 2026

Date of Written Decision: 23rd February 2026

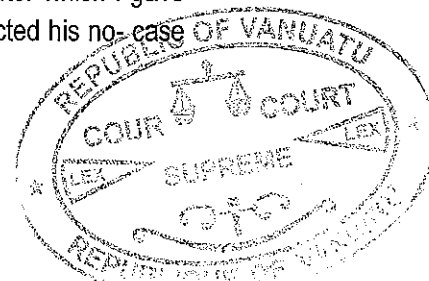
REASONS FOR ORAL DECISION

Introduction

1. The trial of the defendant started on 28th October 2025 and ended on 29 October. The Prosecution closed its case after calling evidence from the complainant and two other witnesses namely Pippa Arnhambath and Judith lakawai.

Background

2. Mr Nalyal indicated he needed 7 days to file submissions that the defendant has no case to answer. Leave was granted and Mr Nalyal filed written submissions on 27th November 2025. He submitted relying on section 164 (1) of the Criminal Procedure Code Act [Cap 136] there was no case to answer by the defendant and that the Court should pronounce a verdict of not guilty.
3. Prosecution filed their response on 11th December 2025 submitting the correct test to be applied is established by the Court of Appeal in PP v Suaki [2018] VUCA 23.
4. I heard Counsel orally in relation to those submissions today (20/02/2026) after which I gave an oral decision. I found there is a case to answer by the defendant and rejected his no-case submissions.



Reasons

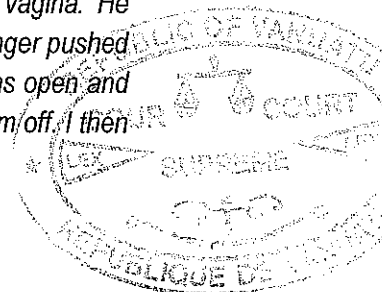
5. I now provide the reasons
6. Firstly I accept Prosecutions submissions that the correct test to be applied in a no- case submission made under section 164 (1) of the CPC Act is as set out in the Suaki case. In that case the Court of Appeal made a distinction between the determination made at the close of the prosecution and the ultimate decision on the guilt of an accused to be made at the end of the case. The Court considered that the correct test to be applied for a no-case to answer is whether or not on the basis of a prima facie assessment of the evidence there is a case in the sense of whether there is sufficient evidence introduced on which if accepted, a reasonable tribunal could convict the accused.
7. Section 164 (1) of the CPC states:
"164. (1) If, when the case for the prosecution has been concluded, the judge rules, as a matter of law that there is no evidence on which the accused person could be convicted, he shall thereupon pronounce a verdict of not guilty."
8. The test is an objective one which is applicable to section 135 of the CPC as well. Section 135 states:

"ACQUITTAL OF ACCUSED PERSON WHEN NO CASE TO ANSWER

135. If at the close of the evidence in support of the charge, it appears to the court that a prima facie case is not made out against the accused person so as to require him to make a defence, the court shall dismiss the case and shall forthwith acquit him."

Evidence

9. I now turn to the relevant evidence. The complainant's part of the evidence in chief was that:
" Grem came to call me through the window asking me to go and see him. I went to see him near the.... He then asked me to sleep with him, I said yes. I went back inside the room. I went to watch on tablet until I slept. I don't know what time it was. I felt someone touch me on the left shoulder. I slept on the other. I woke up and faced him, I saw it was Grem because of the light that shone through the window (referring to the map). It was not too dark, I could see it was Grem. I turned and he kissed me on the mouth. I smelt alcohol on his mouth. He asked for sex, I said no to him and he heard me. He asked me to suck his dick. I did and he asked me to have sex with me but I said no to him."
10. She was asked to clarify how Grem asked for sex? She said:
" He kissed my lips, I said no and shook my head. He asked me to suck his dick, I did it. He insisted on asking to the point that I gave in. He put his penis into my vagina and had sex with me. He pulled down my pants, he put his finger into my vagina. He pushed his finger, I can't remember how many but I remember it was his finger pushed in. when he was having sex my cousin brother came around. The door was open and thought he had locked the door. He knocked on the door and I pushed Grem off, I then



told a lie that Grem's family had locked the door on him so that he came to sleep with us in the house. My brother then said I should go and sleep outside while he and Grem should sleep inside."

11. She was then asked to clarify why she did not scream, she said:
"I was afraid my relatives would come and accuse me of taking him into the room...."
12. The evidence in the preceding paragraphs establish a prima facie case against the defendant requiring him to put up a defence. Section 135 of the CPC Act is therefore of relevant consideration.
13. Next is the question whether or not the evidence is sufficient for the Court to convict the defendant? This depends on the totality of the evidence of the prosecution as well as of the defendant.
14. Prosecution witness, Pippa did not see any of the actions described by the complainant that night. Similarly Judith Iakavai did not see what occurred between the complainant and the defendant that night in the room.
15. The defence of the accused is that sexual intercourse was consensual. In reality what we are faced with is the complainant's word against the accused's word. Under those circumstances, credibility will need to be considered. And for that to occur the accused must be given the opportunity to tell his side of the story
16. In his statement to the Police the accused stated his intention to speak only in Court. Accordingly he must be given the opportunity to do so.
17. I therefore find there is a case to answer. I order that trial hearing will continue on Thursday 26th February 2026 at 9:00am in Hearing Room, SC Registry.
18. Bail is extended on existing conditions.

DATED AT Port Vila this 23rd day of February 2026

BY THE COURT


Hon. Justice Oliver A Saksak

