

PUBLIC PROSECUTOR

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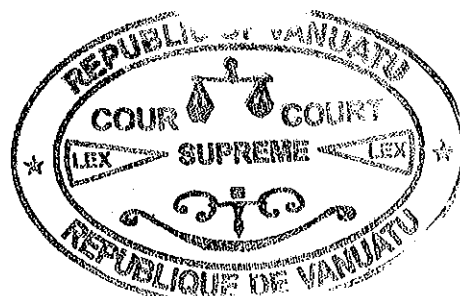
FRANK METO

Coram: Chief Justice Vincent LUNABEK

Counsel: Ms Viviane Laumae and Mr Tristan Karae for the Prosecution
Mr. Tom Loughman for the Defence

SENTENCE

1. Mr Frank Meto, you appear today for your sentence. On 9th April 2010, after 4 days of trial, you were convicted of the following sexual offences with your step-daughter:
 - One count of Sexual Intercourse with girl under care or protection, contrary to section 96 of the Penal Code Act (count 1).
 - One count of Unlawful Sexual Intercourse, contrary to section 97(2) of the Penal Code Act; and
 - One count of Sexual Intercourse without consent, contrary to section 91 of the Penal Code Act [CAP.135].
2. The sexual offences you were convicted of are very serious offences as reflected in the maximum penalties set by law.
3. Let me remind you again about the penal provisions and their maximal penalties:
 - Sexual intercourse with child under care or protection is prohibited by section 96(1). It states:
"96(1) A person must not have or attempt to have sexual intercourse with any child, not being the person's spouse, who is under the age of 18 years and who:



(a) *being the person's stepchild, is at the time of the intercourse or attempted intercourse living with the person as a member of the person's family;*

(b)

Penalty: Imprisonment for 10 years."

- Unlawful sexual intercourse is prohibited by Section 97(2). It states:
"97(2) *No person shall have sexual intercourse with any child under the age of 15 years but of or over the age of 13 years.*

Penalty: Imprisonment for 5 years."

- Sexual Intercourse without consent is prohibited by section 91. It states:

"91. *No person shall commit sexual intercourse without consent.*

Penalty: Imprisonment for life."

4. The facts of this case are this. You were born on 10th August 1966 on the Island of Tongoa, in the Province of SHEFA, Vanuatu. You are now 44 years of age. The complainant in this case is your stepdaughter. For obvious reasons, we will call her (C). (C) was 15 years of age. She was a student at Vila North School. She resides at Ohlen Mataso with you and her mother Wendy Frank. As the facts show, you have been sexually abusing your stepdaughter since the year 2002 until the year 2009. (C) stated in her statement to the police dated 24th December 2009 that you often have sexual intercourse with her without her consent. You started to sexually abuse her when she was 8 years of age. When she refused to let her body to you, you would threaten her that you would kill her.
5. In 2002, in your house at Ohlen Mataso, your wife Wendy saw you and your stepdaughter (C) in your bedroom and you were trying to push you penis into C's vagina. When Wendy told you what she saw, you hit her and accused her of having negative thoughts about you and the complainant (C).
6. On another occasion where (C) and her sister Elsie were sweeping the floor in the house at Ohlen Mataso, your wife Wendy saw you standing behind (C). Wendy looked in front of your trousers and saw that you were stimulating behind (C) while (C) was sweeping. Wendy then approached you and talked to you. You then got angry at Wendy and you hit her. Your daughter Elsie who was 12 years of age saw you with the complainant (C) but she did not know what you were doing with (C). On one occasion, she saw you going inside the toilet while her sister (C) was still inside that toilet. On another occasion, you forced (C) to remove all her clothes at the river. (C) refused but you forced her and at that time you had a bush knife. (C) started crying. (C) then removed all her clothes. She stood beside the river full naked and was crying. The matter

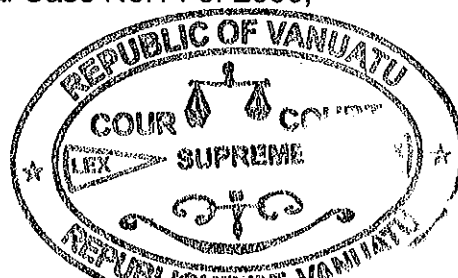


was reported to the police. You were arrested at Ohlen Mataso area on the 17th January 2010 at 2.30am o'clock. You were then taken to the police station and you were put to police cell No.6.

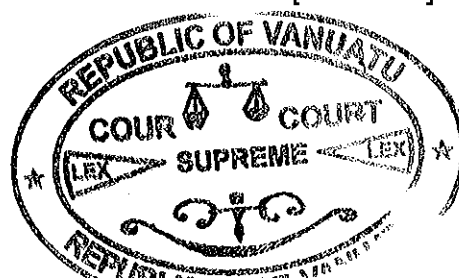
7. Your stepdaughter gave evidence of the fact that you sexually abused her on several occasions and at different dates and years. She could not recall about the exact dates and times but she had clear recollections of the places you abused her. One occasion was inside on your bed in your bedroom at Tanoliu house. Another occasion was inside the toilet. Another was in the garden and at night when you went hunting flying foxes with her, Elsie and her brother Samu. You threatened (C) to have sexual intercourse with you and she was afraid of you. You forced (C) to have sexual intercourse with her as alleged against you.
8. In this case, you do not dispute the fact that you had sexual intercourse with your stepdaughter. You challenge the allegations put against you because you said your stepdaughter (C) consented to have sexual intercourse with you.
9. Mr Frank Meto, in sentencing you, there is a need for the Court to denounce your behaviour. It is unacceptable and intolerable for a father to sexually abuse his child. The sentence I am going to impose on you must reflect an overwhelming need for the Court on behalf of the community to condemn in the strongest terms a father or any who abuse children in the community.
10. Your daughter (complainant) like other children in the community must be protected. The sentence I am going to impose on you must not only be the appropriate sentence to punish you but it must also be served as a deterrence to others who may be tempted to commit the similar type of sexual offences on the young people in the community.
11. The Courts in Vanuatu have stated and they will continue to hold that:

"Men must learn that they cannot obtain sexual gratification at the expense of the weak and the vulnerable. What occurred is a tragedy for all involved. Men who take advantage sexually of young people forfeit their right to remain in the community." **Public Prosecutor v. Kevin Gideon**, [2002] VUCA 7; Criminal Case No.03 of 2001. The General approach of the courts in respect of sexual offending both within the family and generally are fully discussed in some of the following cases:

- **Peter Talivo v. Public Prosecutor** [1996], VUCA 2; Criminal Case NO.2 of 2006
- **PP v. Ali August** [2000], Criminal Case No.14 of 2000;



- **PP v. Kevin Gideon** [2002] referred to above;
 - **PP v. Maslea Scott and Jeremaiah Tula** [2002], Criminal Case No.12 of 2002.
12. I have had an opportunity to read and heard submissions from the Public Prosecutor and submissions made by your lawyer on your behalf. I have also read and consider the pre-sentence report provided by the Probation Officer on your behalf.
13. In this case, your offending is aggravating by the following factors:
1. The breach of trust and its abuse by you towards your stepdaughter who could no longer be protected at home.
 2. The fact that the sexual abuses occurred more than one time.
 3. The complainant received threats from you.
 4. There is a large gap age difference between you and the complainant (44 and 15).
14. The report shows that you do not accept your offending although you accept that you had sexual intercourse with your daughter. You do not have insight to your offending. You showed no empathy towards your daughter, the complainant victim. You said the complainant is not your biological daughter. Further you blame your wife Wendy for your offending. You seem to show low motivation to address your offending behaviour. That is unacceptable.
15. There are no mitigating factors in your sentencing. The report indicates also that you are not a first time offender. You were serving a community based sentence for 160 hours which you did only 16 hours. You failed to cooperate with the community Justice Supervisor.
16. The starting point of your sentence is 5 years imprisonment in relation to the offence of Sexual Intercourse with girl under care or protection, contrary to section 96(1) of the Penal Code Act, 3 years imprisonment for the offence of Unlawful Sexual Intercourse, contrary to section 97(2) of the Penal Code Act and 5 years imprisonment for the offence of sexual intercourse without consent, contrary to section 91 of the Penal Code Act [CAP.135].
17. I increase your sentences respectively to 3 years imprisonment for the offence of sexual intercourse with girl under care or protection, contrary to section 96(1) of the Penal Code Act, and 1 year imprisonment for the offence of Unlawful Sexual Intercourse, contrary to section 97(2) of the Penal Code Act and 5 years imprisonment for the offence of Sexual Intercourse without consent, contrary to section 91 of the Penal Code Act [CAP.135]. The total of



your respective sentences are 8 years, 4 years and 10 years imprisonment as charged and convicted (in Counts 1, 2 and 3).

18. You shall serve your sentences concurrently. This means that you will serve a total term of 10 years imprisonment.
19. I am informed that you have already served 4 months and 27 days in custody. This period will be deducted from your total term of 10 years imprisonment.
20. You are ordered to serve a term of 9 years and 7 months and 3 days imprisonment and this with immediate effect.
21. You have 14 days to appeal this sentence if you are not happy with it.

Dated at Port Vila, this 8th of July, 2010

BY THE COURT

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Vincent LUNABEK
Chief Justice

