

PUBLIC PROSECUTOR -v- COLLEN PAUL

Coram: *Chief Justice Vincent Lunabek*

Counsel: *Mr Gregory Takau for the Public Prosecutor
Mr Tom Joe for the Defendant*

JUDGMENT

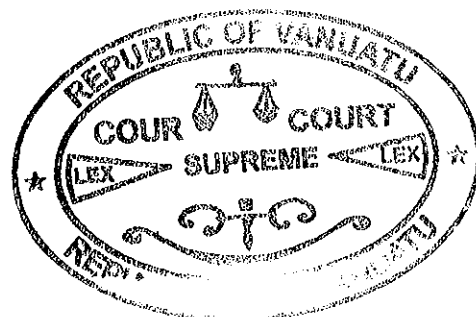
This is the trial of the Defendant, Collen Paul. The Defendant was charged and he pleaded not guilty to:

- One count of unlawful sexual intercourse, contrary to section 97(1) of the Penal Code Act [CAP.135].
- one count of Act of indecency with a young person, contrary to section 98A of the Penal Code Act [count 1].

The complainant is a child girl of 5 years of age and is the daughter of the Defendant. The prosecution decides to call her as a witness. As part of the pre-trial management, following steps have been taken:

As there is no video conference facilities available, Court issued directions that-

- (i) the Judge should not wear his wig and black jack and robe;
- (ii) lawyers should remove their black Jacket and robe;
- (iii) A table is set down on the room in front of the clerk for the Judge to sit on instead of sitting in the bench (to be on same level as the child witness and the others in the court room).
- (iv) A physical screen was put to protect direct eye contact between the Defendant and the child witness;
- (v) The child gave unsworn evidence.



She knows what is the bible. She knows what is right (wanem i gud) and what is wrong (wanem i nogud). She said she will talk ad what she will say is true. She gave evidence of what happened on the day of alleged offence. She gave an account of what happened on the day the offence is alleged to occur.

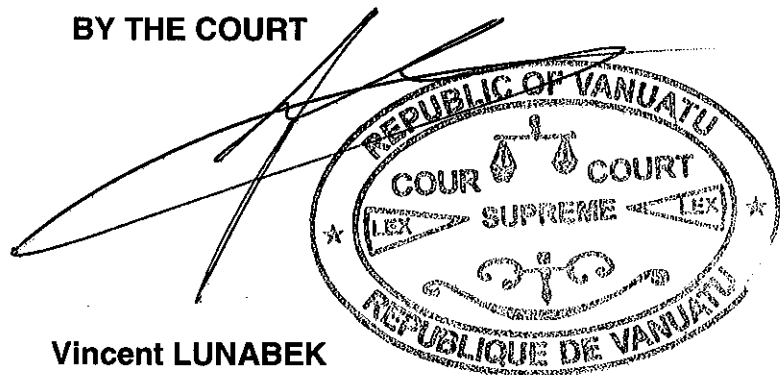
She is accurate in her account of event that on that day (23 March 2011)at the house of her auntie, she saw her father but his father did not touch her or take her in her evidence in chief and she confirms the same when Mr Tom Joe asked few questions in cross-examination to her.

As a result, the prosecution applies for a nulli prosequi under section 29 of the Criminal Procedure Code Act [CAP.136].

The Defendant Collen Paul is found not guilty of the unlawful sexual intercourse, contrary to section 97(1) and indecency with a young person, contrary to section 98A both of Penal Code Act and he is accordingly acquitted on both offences in count 1 and count 2.

DATED at Port-Vila this 9th day of June 2011

BY THE COURT



**Vincent LUNABEK
Chief Justice**