

(Criminal Jurisdiction)

**PUBLIC PROSECUTOR**

**-VS-**

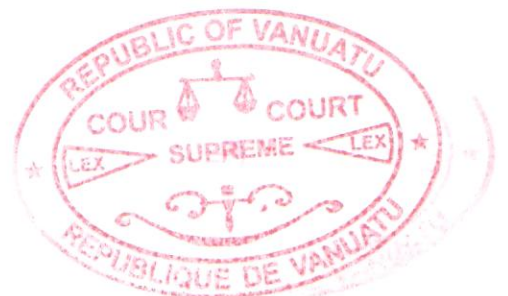
**SAMMY TUGU  
SMITH RIHU**

**Mr Justice Oliver A. Saksak  
Mrs Mandeng M. John - Clerk**

**Mr P. Wirrick for Public Prosecutor  
Miss J. Tari for Defendants**

**SENTENCE**

1. Smith Rihu, you pleaded Not Guilty here in Luganville on 5<sup>th</sup> August 2011 to one count of Sexual Intercourse without Consent Contrary to Section 91 of the Penal Code Act Cap 135 (the Act). The Court sat at Lavatu, North Pentecost on 29<sup>th</sup> August 2011 and conducted trial into your case. At the end of the trial the Court returned a verdict of guilty and conviction was entered against you accordingly. You were remanded in custody on that same day.
2. Sammy Tugu, you pleaded guilty to one charge of Sexual Intercourse Without Consent Contrary to Section 91 of the Act on the same date 5<sup>th</sup> August 2011. The Court entered conviction against you but deferred sentence pending trial of Smith Rihu. You were remanded in custody on the same day.
3. Your actions on 12<sup>th</sup> July 2011 against the victim and her 3 other friends, 2 of whom were her younger sisters displayed a certain degree of male chauvinism when you told these girls "Yufala ino save ol man Loltavola yet or Today You will know who men from Loltavola". I think you should know that real men do not assault girls or women. Your actions show instead that you are cowards instead of being real men.



4. Your victim, was 15 years old, 6 years younger than you Smith Rihu and 2 years younger than you Sammy Tugu, she should look to both of you for care and protection. Instead you both abused her. You used threats and a certain degree of force against her. You took her to a secluded area, away from where people live, so that she could not refuse your sexual demands. You put her in a position of risk for her safety. After you both imposed yourselves on her without her will, you ran away with her skirt leaving her all by herself until she was found by father and her 2 uncles. She felt humiliated and ashamed when seen in that condition by her own father and 2 uncles. Sammy Tugu, you ejaculated into the victim exposing her to a risk of teenage pregnancy. These are the aggravating features of your offendings. These are remarkable features available in a contested case as far as Smith Rihu is concerned.
5. In view of those aggravating features, the only appropriate punishment for both of you will be custodial sentences. The purpose of this penalty being imposed is to (a) mark the seriousness of your offendings (b) mark the public condemnation of your behavior (c) deter both of you and others who are minded to behave in the way that both of you did (d) to punish both of you adequately and (e) to protect young girls in the same category.
6. In sentencing both of you today the Court follows the sentencing principles in the cases of PP v. Scott [200] VUCA 29, and PP v. Gideon [2002] VUCA 7. I find nothing in the facts to make your offendings exceptional as to warrant a suspension of sentence.
7. Therefore the following sentences are imposed –
- (a) On Smith Rihu, a sentence of 8 years imprisonment as the starting point. The Court allows a 1/3 reduction for customary reconciliation of 8 pigs with full rounded tusks reducing your sentence down to 64 months or 5 years and 4 months. For being a first time offender and for good cooperation with police the Court will take away the 2 months leaving the balance at 62 months or 5



years and 2 months imprisonment. This term of imprisonment began on 29<sup>th</sup> August 2011 when you were first taken into custody.

- (b) For you Sammy Tugu, a sentence of 8 years imprisonment as the starting point. Like Smith Rihu, 1/3 is deducted from 8 years leaving time balance at 64 months which is 5 years and 4 months. You pleaded guilty at the first available opportunity. You cooperated well with police during investigation. You are a first time offender. For these the Court gives you credit by allowing a further reduction of 8 months which is 4 years and 6 months imprisonment. Your sentence commenced on 5<sup>th</sup> August 2011 when you were first remanded in custody.
8. The prosecutor requested that defendant Smith Rihu pays prosecution costs. The Court agrees that that is a valid claim and allows it. Smith Rihu is hereby ordered to pay prosecution costs in the sum of VT7,600. He must arrange through Counsel for his relatives to pay this sum on his behalf while he is serving his sentence. This should be paid within 30 days from today.
9. That is the sentence of the Court. Right of appeal is advised.

**DATED at Luganville this 9<sup>th</sup> day of September 2011.**

**BY THE COURT**

  
**OLIVER A. SAKSAK**

**Judge.**

