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(Criminal Jurisdiction)

**PUBLIC PROSECUTOR**

**-VS-**

**MANAS JIMMY**

Mr Justice Oliver A. Saksak

Mr Parkinson Wirrick for Public Prosecutor and State  
Miss Jane Tari for the Defendant

**SENTENCE**

1. Manas Jimmy you pleaded guilty to one Count of Sexual Intercourse without Consent Contrary to Section 91 of the Penal Code Act Cap 135. The maximum penalty for this offence is life imprisonment.
2. Your victim was a 14 year old village girl. You knew her very well. She and other girls cooked lunch for you and your two friends. Later when she was playing with her sisters you approached her from the bushes with a bush knife and demanded that she follow you into the bushes. She felt threatened by seeing the knife and she followed. You used some degree of force on her and ultimately had sexual intercourse with her without her consent.
3. The Prosecutor and defence Counsel both made references to the classic case of Public Prosecutor v. Scott [2002] VUCA 29 as the leading authority.



Based on this authority it is clear to the Court that a custodial sentence is the only appropriate punishment for you for your offending.

4. Accordingly the Court convicts and sentences you to a term of imprisonment.

5. I accept on the basis of Scott's Case that the starting point for you will be 5 years imprisonment. However there will be an uplift of 2 years for the three aggravating features submitted by the Prosecution. These are that -

(a) The victim was young at 14 years old.

(b) There was a breach of trust between you and her as first cousins; and

(c) You had a weapon (a bush knife) in your possession at the time prior to offending.

For these, your total sentence is 7 years imprisonment.

6. I consider the four mitigating factors submitted by defence Counsel. These are that –

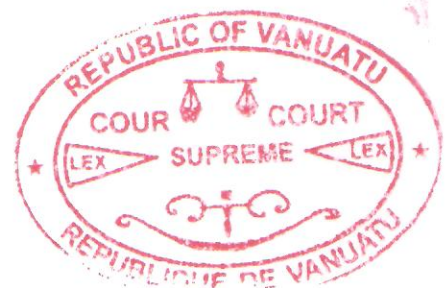
(a) You are a first time offender with no previous convictions;

(b) You are a young offender of 17 years old;

(c) Your guilty plea and remorse; and

(d) Your good cooperation with police during investigations.

7. I note the three cases submitted by Miss Tari being the cases of PP v. Ansen [2012] VUSC 9, PP v. Scotty Sovan & Anor [2011]VUSC 42 of 2011 and PP v. Tugu [2011] VUSC 267. By comparison your case is placed on a much lower scale than these three cases.



8. Your young age, considered in light of the Court of Appeal ruling in Heromanley v. PP [2010] VUCA 25, together with the other three mitigating factors as submitted, attract a substantial reduction of your sentence. This is so that the sentence does not have a crushing effect on you, but rather to put some hope in you to make positive rehabilitation necessary for your future reintegration into your community.
9. For those reasons, I consider that your total sentence of 7 years should be reduced by 3 years and 7 months. The balance is 3 years and 5 months which you have to serve at the Correctional Centre. The sentence serves as - (i) a deterrence both to you and to other men and boys, (ii) a public condemnation for your offending (iii) marking the seriousness of your offending and (iv) an adequate punishment.
10. Your final sentence is therefore 3 years and 5 months in custody. Your term began on 11<sup>th</sup> April 2012 when you were first taken into custody on remand.
11. You have a right of appeal against sentence within 14 days if you so choose.

**DATED at Luganville, this 25<sup>th</sup> day of May 2012**

**BY THE COURT**

  
**OLIVER A. SAKSAK**

**Judge.**

