



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

Criminal Case No.2422/2016

PUBLIC PROSECUTOR .V. JEAN PIERRE YASENMAL

Coram: *Justice Oliver .A.Saksak*

Counsel: *Betina Ngwele for Public Prosecutor
Mary Grace Nari for Defendant*

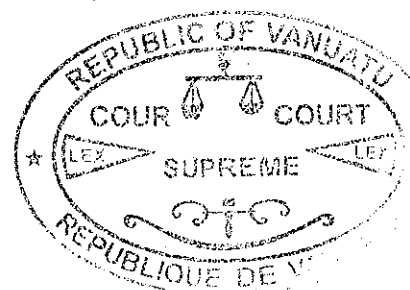
Date of Plea: *27th October 2016*

Date of Submissions and Sentence: *28th October 2016*

SENTENCE

1. Jean Pierre Yasenmal, you are for Sentence today for having pleaded guilty on one count of Sexual Intercourse without consent contrary to sections 90 and 91 of the Penal Code Act [CAP 35] (the Act).
2. This is a very serious as it carries a maximum penalty of life imprisonment.
3. The victim and Complainant is your adopted daughter, the daughter of your brother. Adoption occurred when she was only 7 years of age. Since her adoption you controlled her and ill-treated her and subjected her to physical abuses. You prevented her from visiting her friends and relatives and from seeing her biological father. You assaulted her on numerous occasions, once with a piece of wood fracturing her leg and cut her arm with a knife resulting in her being admitted to the Norsup Hospital for operations. These injuries have restricted her capacity to perform hard labour.

As for your sexual activities, they began in 2013 when the complainant was 19 years old. These activities included you forcing her to watch pornography. When she refused you threatened to kill her dead. You harassed her sexually until you finally had forced sexual intercourse with her on midnight when her mother was not home. You used a knife to frighten her. You approached her in her room and told her to follow you to your room.



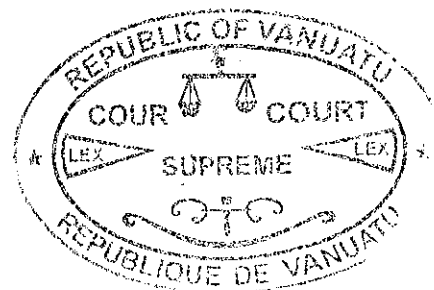
When she refused, you threatened to kill her dead with the knife. She eventually gave in and followed you to your room where you forced your penis into her vagina. She felt severe pain during the forced penetration. You had sexual intercourse with her against her will on 4 other occasions in the same year 2013. The complainant moved back to her biological father but you followed her there and threatened them. You even chased the complainant with a knife and she ran into the garden. You tried to poke her eyes out with the knife. She managed to escape from but you shouted threats after her that she could not escape from you wherever she went and that if you saw her anywhere, you would kill her dead.

These are the aggravating features that add to the already serious offence of sexual intercourse without consent.

4. In sentencing you the Court will apply the principles established in **PP.v. Scott and Tula** [2002] VUCA 29, **PP v Ali** [2002] VUSC 73 and **PP v Gideon** [2002] VUCA 7. The only appropriate sentence for you is to be an immediate custodial one. And the starting point shall be 8 years imprisonment.
5. In mitigation you are entitled first of all to 1/3 reduction due to your guilty plea on rearraignment yesterday. The Prosecutor submitted you should be granted only 10-15% reduction but I reject that submission. Your guilty plea on rearraignment has saved everyone time and expenses.

And you only changed your plea after you have received legal advice from Mrs Nari which advice you didn't have when you pleaded Not-guilty back in August 2016. Therefore from your starting sentence of 8 years imprisonment 2 years and 8 months are deducted. The balance is 5 years and 4 months imprisonment.

6. I have read your presentence report (Same Day) and have accepted the other mitigating factors submitted by Mrs Nari such as-
 - a) Custom reconciliation ceremony and payment of VT 60,000,



- b) Clean past record, and
- c) Cooperation with the police during investigations.

For these factors your sentence is further reduced by 16 months.

Your end sentence is therefore 4 years imprisonment.

- 7. Your sentence takes immediate effect as of today.
- 8. There is no exceptional circumstances in your case to warrant a suspension.
- 9. This high sentence is to serve the following purposes-
 - a) Mark the seriousness of your offending,
 - b) Mark public disapproval and condemnation of your actions,
 - c) Deter you and others from committing this offence,
 - d) Punish you adequately, and
 - e) Protect women, girls and the weak and vulnerable members of our society.
- 10. That is the sentence of this Court. You have a right of appeal against this sentence within 14 days if you do not agree with it.

DATED at Lakatoro this 28th day of October, 2016

BY THE COURT


OLIVER A. SAKSAK

Judge

