

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

Criminal
Case No. 20/3390 SC/CRML

BETWEEN: Public Prosecutor

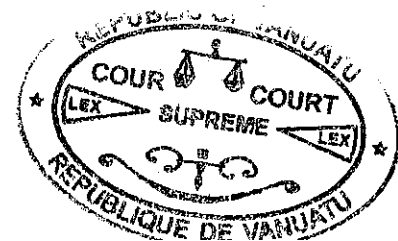
AND: Atis Kalo
Defendant

Coram: *Justice Aru*

Counsel: *Ms. L. Lunabek for the Public Prosecutor*
Mr. L. Moli for the Defendant

JUDGMENT
(Verdict)

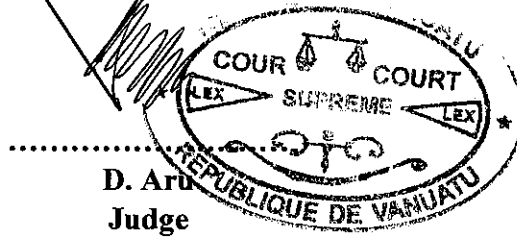
1. The offending in this case occurred in New Zealand when both the complainant and the accused were employed in the RSE seasonal employment scheme. When the complainant returned to Vanuatu she filed her complaint against the accused for sexual intercourse without consent.
2. The accused was charged with a single charge of sexual intercourse without consent contrary to s 90 and 91 of the Penal Code [CAP 135]. The only issue for the trial on Epi was consent, whether the complainant consented to have sexual intercourse with the accused.
3. Before the prosecution opened its case, the accused was informed of his rights and they were also explained to him.
4. The prosecution had three witnesses. The complainant, Jack Keliu and Lucy MiKa. The complainant was the first to be called. She was then cross examined. She made certain admissions under cross examination that she had been having sex with the accused on Epi and in New Zealand prior to the 20 August 2015 incident. She also agreed that on 20 August 2015 she agreed to have sex with the accused. The accused did not force her. She was not re-examined on her evidence and the prosecutor sought a short adjournment which was granted.



5. When the Court resumed the prosecutor informed the Court that she was entering a nolle prosequi in relation to the single charge of sexual intercourse without consent.
6. On the basis the accused was discharged.

DATED at Rovo Bay this 24th day of May, 2021

BY THE COURT



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D. Aru
Judge