

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

**Criminal
Case No. 22/2545 SC/CRML**

**BETWEEN: The Public Prosecutor
Prosecutor**

**AND: Kavera Tevi
Defendant**

**Coram: Justice Aru
Counsel Ms. M. Taikie the Public Prosecution
Mr. J. Vohor for the Defendant**

SENTENCE

Introduction

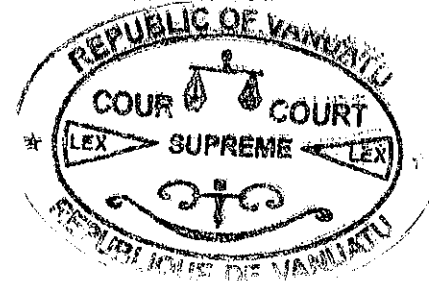
1. Mr Kavera Tevi pleaded guilty to one count of unlawful sexual intercourse with a child under 15 years but over 13 years (count 1) and one count of acts of indecency with a young person (count 2). He now appears for sentencing.

The facts

2. The complainant was 14 years old when the offending occurred. It was around the month of April 2022.

Count 1

3. It was a Palm Sunday and the complainant went to her uncle's house to bake laplap. Later she returned to her house to get some clean clothes. On her way back to her uncle's house the defendant stopped her on the road and told her to follow him. She was afraid and followed him to nearby bushes. The defendant removed her skirt and pushed her to lie down then had sexual intercourse with her. Once the defendant removed himself from her she stood up and wore her clothes and ran home.
4. The same evening the complainant was asleep in her grandparents' house when the defendant entered her room, removed her skirt and panty and had sexual intercourse with her until he ejaculated.



Count 2

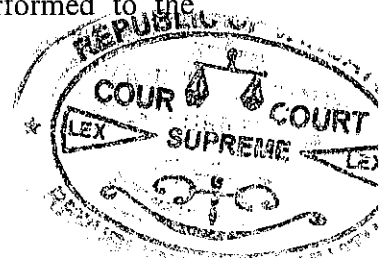
5. The second offending occurred when the defendant was by herself outside in the kitchen. When she left to enter the house the defendant approached her and blocked her mouth and told her not to speak. The defendant pulled the complainant to a tree and started kissing her on the mouth and touched her breasts. The place was dark and the complainant did not know what to do. The defendant wanted to remove her skirt she removed his hands and moved away from him and ran home.
6. When the defendant was cautioned and interviewed by the Police he admitted the offending.

Starting point of sentence

7. The starting point of sentence is to be assessed by considering the maximum sentence available for the offending and taking into account any aggravating or mitigating factors of the offending. The maximum sentence available for unlawful sexual intercourse with a child under 15 years but over 13 years is 15 years imprisonment and for acts of indecency with a young person the maximum sentence is 10 years imprisonment.
8. The offending is aggravated by a number of factors. There is an age disparity as the defendant is much older than the complainant, there is an element of planning involved, part of the offending occurred in the complainant's home where she should feel safe and protected, the offending was repeated and the complainant was exposed to the risk of pregnancy or infection.
9. There are no mitigating factors of the offending.
10. Taking unlawful sexual intercourse with a child under 15 years but over 13 years as the lead offence an overall starting point of sentence is set at 6 years imprisonment.

Mitigation

11. The defendant entered his guilty plea at the earliest available opportunity as a sign of remorse. The end sentence will be reduced by a one third discount.
12. A Same Day Report was filed. It shows that the defendant is now 23 years old. He is a first time offender and comes from a family of six. He lives in a de facto relationship and has a two month old baby. He is the sole bread winner of his family and earns his living through gardening and selling kava. He left school at year 4 after his father died. Being a first time offender and considering other personal factors, the end sentence is further reduced by 7 months. As the defendant spent one month in custody prior to conviction that is also deducted. A custom reconciliation was performed to the



complainant and her family by giving 7 red mats worth VT 2000 each and food. For the custom reconciliation the end sentence is further reduced by 4 months.

End sentence

13. The end sentence is therefore 3 years imprisonment on the lead offence being unlawful sexual intercourse with a child under 15 years but over 13 years effective from 19 October 2022 when the defendant was remanded. On the charge of acts of indecency the defendant is sentenced to 1 year imprisonment to be served concurrently. In view of what the Court of Appeal said in **Public Prosecutor v Kevin Gideon** [2002] VUCA 7 in relation to cases of sexual abuse of young girls, this case does not fall within the '*most extreme of cases*' that warrant a suspension. The sentence will not be suspended.
14. You have 14 days to appeal if you are dissatisfied with the decision.

DATED at Luganville this 21st day of October, 2022

BY THE COURT

