

**PUBLIC PROSECUTOR**

v

**WILLIE ROBERT YAMAK**

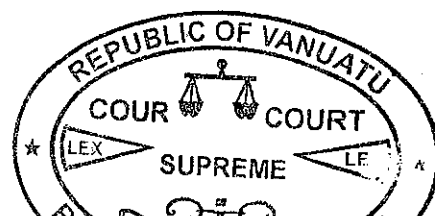
*Date :* 5th day of July, 2018 at 9:00 AM  
*Before:* Chief Justice Lunabek  
*In Attendance:* Ms. Micheline Tasso for the Public Prosecutor  
Mrs. Kylie Karu for the Defendant

---

**JUDGMENT**

---

1. Defendant Willie Robert Yamak is charged with one count of acts of indecency with a young person, contrary to section 98A of the Penal Code.
2. On 2 July 2018, he pleaded not guilty to the charge. A trial is conducted today Thursday 5<sup>th</sup> July 2018.
3. The trial started this morning. Section 81 of the Criminal Procedure Code on the Accused's right of presumption of innocence was read and explained to the accused before the prosecution opened its case.
4. The prosecution case is to the effect that a complaint was made against the accused by his stepdaughter that in the month of February 2012, at their house at Le Lagoon Beach area, Port Vila, the accused pushed his stepdaughter toward the wall of the house and rubbed her buttock (ass) and stomach with his hand. She pushed him away, opened the door and got off.
5. The prosecution called the complainant as its only witness. The complainant gave evidence that she was born on May 5, 1997. She now works at Cocomo Resort as a Chef. She has a boyfriend and a baby.
6. The complainant stated that she understood why she came to Court today which was about the statement she made against her stepfather to the police. She stated that she wanted to tell the Court that the statement she made to the police against her stepfather



was not true. It was true she made the statement. But she said she made the statement for following the reasons:-

When she was a child her mother looked after her alone. Then her mother came and lived with her stepfather. Her step daddy did not take care and treated her mother badly. She tried to convince her mother to leave her step father because of his bad treatment to her mother but her mother did not listen to her. She was tired to see violence at home. She mentioned an incident where her stepfather assaulted her mother in front of her and her little brothers and her step daddy never stayed at home. Her mother only stayed and cared for them at home. Her step father worked but he never financially helped her mother at home. That is why she really hated her stepfather. She said she came up with the idea to make a false statement to the police of such criminal allegation against her step father in order to separate her mother from her stepfather. But when she put the complaint she thought the complaint will only stay with the police. She never thought that the complaint will come up to the Supreme Court. She apologized to her stepfather and to the Court for making a statement to the police that was not true.

7. The prosecuting counsel responsibly stopped the case and decided not to query any further.
8. Before I release the complainant witness, I inform her and warn her of the likely serious situation she puts herself in. Making lying or untrue statement and knowing it to be untrue to secure the conviction of an innocent person is a very serious offence. I advise the prosecution to consider the matter. It is now up to the prosecution.
9. I acquit and discharge the Defendant straight away of the offence of acts of indecency, contrary to section 98A of the Penal Code charged against him as the prosecution cannot prove the elements of the offence as the Defendant did not commit the offence he was charged with.

**DATED at Port Vila this 5th day of July, 2018**

**BY THE COURT**



.....  
**Vincent Lunabek**  
**Chief Justice**

