

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

Criminal
Case No. 19/2583 SC/CRML

PUBLIC PROSECUTOR

v

CHANNEL BULEKURAN

Date: 26 November 2021
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr D. Boe
Defendant – Mr E. Molbaleh

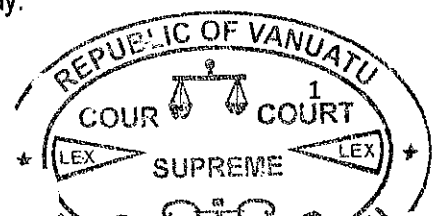
SENTENCE

A. Introduction

1. Mr Bulekuran pleaded guilty to sexual intercourse without consent and was convicted on his own plea and the admitted facts.

B. Facts

2. Mr Bulekuran and the complainant MM are both from Nokonruka village at Central Pentecost. MM is the daughter of Mr Bulekuran's older brother.
3. At the time of the offending, MM was under 15 years old.
4. In 2016, MM was on her way to their garden when Mr Bulekuran approached from behind her and pulled her into the bush. MM struggled and tried to free herself but Mr Bulekuran punched her in the shoulder. She tried to shout but he blocked her mouth and pulled her further into the bush.
5. He pushed her to the ground, removed his trousers and her panty and had sexual intercourse with her without her consent. MM cried and struggled throughout.
6. Mr Bulekuran warned her not to tell her parents or anyone or he would kill her. As a result, MM was frightened and did not report the offending straight away.



7. Mr Bulekuran made full admissions to the Police.

C. Sentence Start Point and Mitigation

8. The sentence start point is assessed having regard to the maximum sentence available, and the mitigating and aggravating factors of the offending.

9. The maximum sentence available is life imprisonment.

10. There are no mitigating aspects of the offending.

11. The offending is aggravated by the following:

- Gross breach of trust;
- Force was used to effect the rape;
- Unprotected sex therefore exposing the complainant to the risk of sexually transmitted infection and pregnancy;
- Mr Bulekuran told the complainant not to tell her parents or anyone what had happened; and
- The psychological effect upon the complainant which she will suffer for the rest of her life.

12. The factors set out above require a sentence start point of 8 years imprisonment.

13. Mr Bulekuran cooperated with the Police but despite several opportunities to, did not plead guilty until today. This was explained due to Mr Bulekuran's low level of education and ignorance of Court processes. His guilty plea today has saved time and the need for MM to give evidence in Court. I deduct 20% from the sentence start point for the guilty plea.

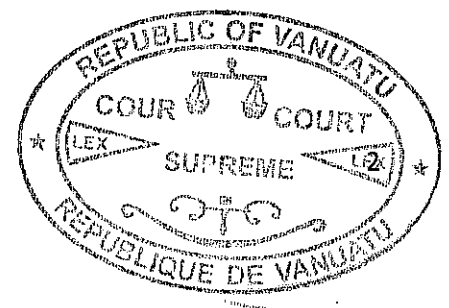
14. Mr Bulekuran is 33 years old. He is married and has two young children. He looks after his elderly parents.

15. He has no previous convictions. However, in offences of sexual nature, a person's previous good character has very little relevance in mitigating a sentence.

16. He has performed an extensive custom reconciliation ceremony with MM and family involving fines of tusked pigs valued at VT40,000, VT15,000, VT8,000, VT6,000 and VT4,000, a red mat valued at VT5,000 and VT6,000 cash, which were accepted. He is remorseful for the offending.

17. He has the support of his chiefs who speak highly of his participation in community events.

18. A further 8 months is deducted from the sentence start point for Mr Bulekuran's personal factors.



D. End Sentence

19. Taking all of those matters into account, the end sentence imposed is 5 years 9 months imprisonment. The sentence is back-dated to commence from 26 July 2021 to take into account the 4 months already served in custody.
20. The sentence is imposed to denounce such criminal conduct, to deter Mr Bulekuran and others from such offending, to hold Mr Bulekuran accountable for his criminal conduct, and to protect women and girls.
21. An immediate custodial sentence must be imposed for this serious sexual offending: *Public Prosecutor v Gideon* [2002] VUCA 7.
22. All details leading to the identification of MM are permanently suppressed.
23. Mr Bulekuran has 14 days to appeal the sentence.

DATED at Bwatnapni, Central Pentecost this 26th day of November 2021
BY THE COURT


Justice Viran Molisa Trief

