



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

Criminal
Case No. 21/3467 SC/CRML

PUBLIC PROSECUTOR

V

JOHN KALTONG

Coram: *Justice O. Saksak*

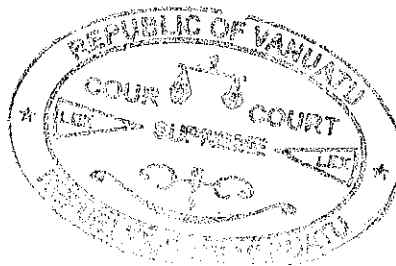
Counsel: *Betina Ngwele for the Public Prosecutor*
Kylie Karu for the Defendant

Date of Plea: *22 October 2021*

Date of Sentence: *30th November 2021*

SENTENCE

1. John Kaltong is appearing for sentence today for pleading guilty to one charge of unlawful sexual intercourse contrary to section 97 (2) of the Penal Code Act CAP 135.
2. The maximum penalty for this offence is 15 years imprisonment.
3. Sometimes in the year 2018 the defendant had unlawful sexual intercourse with his step-daughter at Pangpang village, North Efate. The victim was a 14 year old girl born on 2 January 2004. In 2017 her mother became pregnant. She would come for market in town to sell root crops. It was at these times the defendant would approach his step daughter and demand for sex. Sex was consensual. As a result the victim became pregnant and gave birth to a baby boy. They had sex many times over the period of 9 months the victim's mother was pregnant. The victim did not remember actual dates.
4. The defendant has accepted those facts.
5. There are no mitigating circumstances warranting the defendant's unlawful actions.



6. There are however aggravating features such as a breach of trust. The unlawful actions were repetitive. The offending occurred in the family home where the victim was supposed to feel safe. It was the defendant who instigated the sexual advances. And finally the undesired result of teenage pregnancy. The victim's dignity was eternally exploited and abused with no possible amends.
7. It is a well- established sentencing principle that men who take advantage sexually of young girls will, except in wholly exceptional circumstances will go to prison. See PP v Gideon [2001] VUCA 7.
8. The Prosecutions submitted a sentence of imprisonment is warranted and that the starting sentence be 5 years imprisonment. I agree. The defence has more or less accepted a start sentence of 4-5 years is within range.
9. Accordingly I convict and sentence the defendant to a start sentence of 5 years imprisonment. There are no exceptional circumstances warranting suspension of the sentence.
10. The defendant initially pleaded not-guilty to the charge and only after the Prosecution had adduced evidence from their first witness did the defendant seek leave to be re-arraigned. As such he is not entitled to the full 1/3 reduction. He is entitled only to 16 months reduction for his guilty plea.
11. I note his personal history and character. He is now 47 years old with a wife and 5 children. He is uneducated earning a living through gardening and farming to pay school fees and support his family. He is a first time offender. He performed custom ceremony before his arrest by presenting 1 pig, 1 kava stem, 6 bundles of banana, cassava (manioc) and 5 mats. For these factors I allow a further reduction of 12 months (1 year).
12. The defendant's end sentence is 32 months or 2 years and 8 months imprisonment.
13. So that he does not lose his parole privilege, I order that his sentence be backdated to 30 June 2021, when he was first arrested and kept in custody on remand.
14. The defendant has a right to appeal against sentence within 14 days.

DATED at Port Vila, this 30th November, 2021

BY THE COURT

Oliver.A.Saksak
Judge

