



**IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU**

**Criminal**

**Case No. 21/2033 SC/CRML**

(Criminal Jurisdiction)

**BETWEEN: Public Prosecutor**

**AND: RICHARD MORUK**

Defendant

Date of Plea: 20<sup>th</sup> July 2021  
Date of Sentence: 6<sup>th</sup> December 2021  
By: Justice Oliver A Saksak  
Counsel: Ms Betina Ngwele for Public Prosecutor  
Mrs Kylie Kanu for Defendant

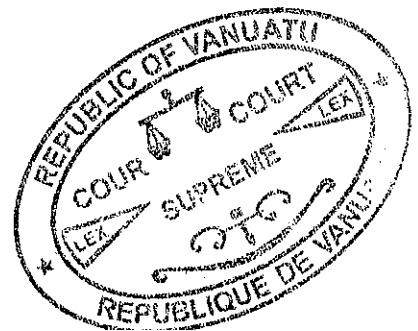
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**SENTENCE**

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**Introduction**

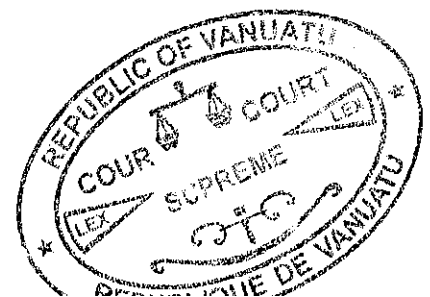
1. The defendant, Richard Moruk was initially charged with 3 charges on 15<sup>th</sup> July 2021 being act of indecency without consent, section 98 (a) Penal Code Act ( Count 1 & 2), and domestic violence, section 4 (1) (a) of the Family Protection Act 2008, Count 3.  
He pleaded not guilty to acts of indecency without consent ( Count 1 and 2) on 20<sup>th</sup> July and guilty to the domestic violence, the matter being adjourned for a pre-trial conference to 23<sup>rd</sup> July 2021.
2. On 4<sup>th</sup> October 2021 the Prosecution filed an Amended Charge and Information containing 4 charges of domestic violence, ( Counts 1m,2,3, and 4). At the pre-trial conference on 23<sup>rd</sup> July 2021 the case was fixed for trial on 6-7 October 2021 at 9:00am.
3. When the case called on 6<sup>th</sup> October 2021 the defendant did not turn up at Court and defence counsel sought an adjournment to 7<sup>th</sup> October with assurance the defendant would attend Court.



4. On 7<sup>th</sup> October 2021 the defendant appeared with counsel and informed he had maintained his pleas of not guilty to the 2 charges in Counts 1 and 2 and guilty to the charge in Count 3. These included the amended charges.
5. The case was adjourned to 4<sup>th</sup> November 2021 for trial. However on that date the Prosecution entered nolle prosequi in relation to the charges in Counts 1, 2 and 4.

### Discussion

6. The defendant is here for sentence for pleading guilty to one charge of domestic violence.
7. The maximum penalty for this offence is imprisonment not exceeding 5 years or a fine not exceeding VT 100,000 or both.
8. The complainant and victim is a 17 year old student attending year 10 at Epauto School. The defendant is the step-father of the victim. He now co-habits with the mother of the victim at Freshwota 4, in Port Vila.
9. In the morning of 23<sup>rd</sup> March 2021 the victim was getting ready to go to school. The defendant however instructed her to prepare breakfast for the other children or siblings. She however responded by asking: "why can't you do it yourself?", at which the defendant got angry and punched her at the back of her head twice.
10. The victim cried as a result and the defendant apologised to her and hugged her.
11. The victim lodged a written complaint to the Police on 10<sup>th</sup> April 2021 resulting in investigations and charges laid.
12. At the initial plea date the defendant admitted the domestic violence charge and explained through defence counsel that he only slapped the victim with his hand.
13. There were absolutely no mitigating circumstances for the defendant's action. But there are aggravating features. This girl was his step-daughter, living under his care where she should feel love, and protection. There was a breach of trust. The victim did not deserve such a treatment. The complaint went further to allege acts of indecency without consent. There were repeated actions. Despite the Prosecution deciding not to continue to call evidence, they had two witnesses which had trial proceedings could have proven the allegations. First the victim being on 17 year old year 10 student, why would she be not believed. Second there was her mother Magrette Antamat who made a witness statement, which could confirm the victim's allegation.
14. Be that as it may, the defendant admitted he assaulted the victim within a domestic setting. Fortunately he was not charged also under section 107 of the Penal Code Act.



15. The Court therefore must impose a deterrent sentence on the defendant which would also mark the seriousness of the offending, the Court's disapproval of his action, and to ensure the weak and vulnerable members of the society are protected.

16. Accordingly I convict and sentence the defendant to a start sentence of 2 years imprisonment.

### **Mitigation**

17. In mitigation I take into account the defendant's guilty plea and reduce his start sentence by 8 months. The balance of his sentence is 1 year 4 months imprisonment.

### **Suspension**

18. I take into account the nature of the offending and the character of the defendant and therefore suspend his end sentence for a period of 2 years. This means that defendant must not commit any other offences for which he would be charged and convicted. If he does, he will go to prison for 1 year.

19. For reconciliation ceremony showing remorse and other personal factors, I reduce his sentence by a further 4 months. That leaves his end sentence at 12 months or 1 year imprisonment.

20. This suspension is made pursuant to section 57 of the Penal Code Act.

21. There is a right of appeal against sentence within 14 days.

**DATED at Port Vila this 6<sup>th</sup> day of December 2021**

**BY THE COURT**

  
**OLIVER.A.SAKSAK**

**Judge**

