

PUBLIC PROSECUTOR
v
IVEN PATUNTUN

Coram: Hon. Chief Justice Vincent Lunabek

Counsel: K Massing for the State
J Vohor for the Defendant

Date of Plea: 22 April 2024

Date of Sentence: 26 April 2024

SENTENCE

I. Introduction

1. Mr Iven Patuntun ("Mr Patuntun"), you appear today for sentence.
2. On 22nd April 2024, you pleaded guilty to one charge of unlawful sexual intercourse, contrary to Section 97(2) of the Penal Code Act [CAP. 135].

II. Facts

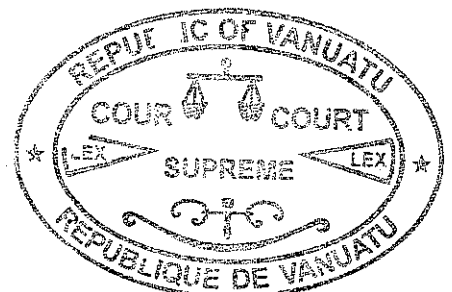
3. You were convicted on your plea and admitted to the following facts.
4. You are a police officer. The complainant girl was over the age of 13 years old at the time of the alleged offending. Her date of birth was 2nd of May 2010 as reflected in her birth certificate.
5. The genesis of the offending begins on the 5th of October 2023. It was after the event of the Constitution Day and Cyber awareness. The complainant and her friends went to the beach bar to have some beers. They then moved outside to seat at the chairs outside the bar. Outside the bar they met you, Mr Patuntun and your two other friends. You asked her to follow you to your house at Banban. You then left to buy some more beers inside the bar where you asked your two friends to have a look at the complainant or keep an eye on her. When you entered the bar



- there was a fight in front of the bar, where you and your other friends went to calm the situation down.
6. After that situation, you, your friend, the complainant and her friends stopped a vehicle double cabin and you all went to Banban. The vehicle dropped you all off at Banban Park. Your friends and the complainant's friends went to their respective home. Where you, Mr Patuntun and the complainant went to your house. When you both arrived at your house, your families were still awake. You both went into your room and then went to sleep. During the sleep, you had sexual intercourse with her. You had sexual intercourse with her twice.
 7. When you went to work the next morning, you told your family that they should keep an eye on her so that she did not escape from your house. She stayed with you from the 5th of October 2023 to the 12th of October 2023. It was when her mother learned that the complainant is with you and she went to Luganville Police Station to report the matter to the police. The police went to your house and took her to the police station.
 8. You were arrested, cautioned and interviewed by the police where you admitted the allegations made against you.

III. Sentence Start Point

9. The maximum sentence available for this present offending is 15 years imprisonment.
10. In this case, there are no mitigating factors to the offending, but the following aggravating features of the offending exist:
 - (a) You are a police officer – a law enforcement officer where you should keep law and order but instead involved in this criminal offending;
 - (b) There are age differences between you Mr Patuntun and the complainant girl. You are 30 years old and the victim girl was 13 years and 2 months old – (an age difference of about 16 years);
 - (c) There may be mental impact on the complainant;
 - (d) You kept the complainant in your house and you asked the members of your family to look after her and to ensure that she did not escape;
 - (e) The mother of the complainant reported you to the police. The police officers removed the complainant from your house and delivered her to her mother at the police station in Luganville.



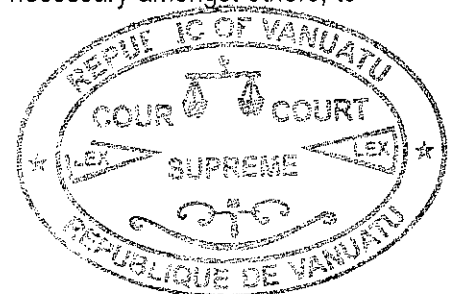
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11. The appropriate sentence start point is 4 years imprisonment based on the circumstances of this case.

IV. Personal Mitigating Factors to the Defendant

12. You are 30 years old. You are from Mota Island, Torba Province. You currently live in defacto relationship with your partner at Banban area, Santo. You have completed your level of education in Year 12 at Arep Junior Secondary School. You were graduated as a police officer in November 2019. You have good relationship with your family, chiefs, and other members of your community at Banban area. You are a constable officer. You are first time offender. You do not have previous convictions. You were remorseful that the complainant was underage, however, she came to you and agreed for you to have sex with her.
13. You said you realized your mistake and regretted your actions when you found out that the complainant is underage.
14. I reduced your sentence by 12 months to reflect on your mitigating factors;
15. I further reduced your sentence by 33% to reflect your early guilty plea you gave to the Court at the earliest opportunity.
16. I finally reduced your sentence to 2 months to reflect on the custom compensation you provided to the complainant and accepted by her and her family.

V. The End Sentence

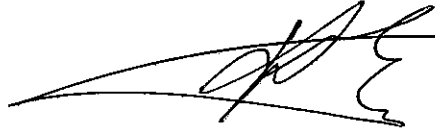
17. The remaining balance of your sentence is 22 months i.e. 1 year and 10 months imprisonment.
18. You have already spent 5 days in pre-custody period. This period is deducted from your remaining sentence. The remaining balance of your sentence now is 1 year 9 months and 25 days imprisonment.
19. I ask the question whether I should suspend this sentence. I decline to do so based on the authorities of Public Prosecutor v Gideon [2002] VUCA 7, when the Court of Appeal stated: "*It will only be in a most extreme of cases that suspension could ever be contemplated in a case of sexual abuse. Men must learn not to obtain sexual gratification at the expense of the weak and vulnerable*". And also Public Prosecutor v August [2000] VUSC 73 and Public Prosecutor v Scott and Tula [2002] VUCA 15. The imprisonment sentence is necessary amongst others, to protect girls and women in the society.



20. Mr Patuntun, you are sentenced to 1 years, 9 months and 25 days imprisonment. You shall serve this sentence with immediate effect.
21. You have 14 days to appeal this sentence if you are unsatisfied with it. The 14 days start on the date of this sentence.

DATED at Luganville, Santo, this 26th April, 2024.

BY THE COURT



Hon. Chief Justice Vincent LUNABEK

