

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

Criminal
Case No. 24/2895 SC/CRML

BETWEEN: Public Prosecutor

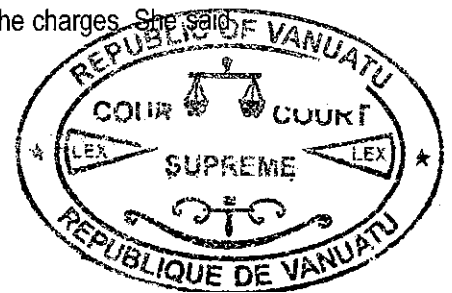
**AND: Falu Toukoune
Defendant**

Coram: Justice Dudley Aru

**Counsel: Ms. M. Tasso Public Prosecutor
Mr. W. Kapalu for Defendant**

JUDGMENT

1. Mr Tukoune was initially charged with one count of domestic violence contrary to s4 1) a) and s10 of the family Protection Act No 28 of 2008 and one count of sexual intercourse contrary 90 a) and 91 of the Penal Code [CAP135]. The accused is alleged to have committed these offences on his own biological daughter who is the complainant. Mr Tukoune pleaded not guilty to both charges on 11 October 2024 and the matter was set down for a two-day trial on the 18 and 19 February 2025.
2. On the 18th February the prosecution sought an adjournment of the trial to the 19th. Before the trial began Mr Tukoune was re arraigned on an amended information filed by the prosecution on 11th February 2025 which now contained two counts of sexual intercourse without consent (counts 1 and 2) and one count of domestic violence (count 3). He maintained his not guilty pleas on all the charges and the trial proceeded.
3. Mr Tukoune was informed of his rights pursuant s81 of the Criminal Procedure Code [CAP136] that he is '*presumed to be innocent unless and until the prosecution has proved his guilt beyond reasonable doubt...*'. In her opening of the prosecution case, Mr Tasso indicated that she will be calling three witnesses, the Complainant, her mother (accused's wife) and a third witness by the name Kathleen.
4. Before the complainant gave her evidence, the prosecution applied for a screen to be placed in the court room to prevent any direct eye contact between the accused and the complainant. A short adjournment was granted to prepare the Court accordingly. When the Court resumed, the complainant proceeded with her evidence but remained silent after given her name, age and the place where she resides and with whom she resides. After a while Ms Tasso sought a short adjournment to speak with her and find out if something was wrong. The trial resumed after the adjournment but the complainant could not give any evidence to support the charges. She said she made a false statement to the Police about her father.



- Ms Tasso then informed the Court that she was not offering any further evidence and will not be calling the other witnesses and rested the prosecution case. Mr Kapalu relied on s164 of the CPC to submit that there is no evidence on which his client could be convicted.

Result

- The Prosecution has offered no evidence to support the charges which indicates that there is no evidence on which the accused could be convicted. Mr Tukoune is therefore acquitted on all three Counts and the charges are hereby dismissed.

DATED at Port Vila this 19th day of February, 2025.

BY THE COURT

Dudley A. A. A.
Judge

