

IN THE HIGH COURT OF FIJI
CRIMINAL JURISDICTION
AT LAUTOKA

CRIMINAL CASE: HAC 116 OF 2011L

BETWEEN : STATE

AND : SIONE SADRUGU

Counsel : Mr. Niudamu . J. for State
The Accused is in person,

Date of Hearing : 26th of February and 2nd of March 2015

Date of Summing Up: 3rd of March 2015,

Date of Judgment: 4th of March 2015.

Date of Sentence : 6th of March 2015.

SENTENCE

1. You, Sione Sadrugu stands convicted for one count of rape contrary to section 207(1) and 207(2) (a) of the Crimes Decree, which carries a maximum penalty of life imprisonment.

2. Subsequent to the hearing of this charge and the unanimous guilty verdict of the three assessors, the court found you guilty and convicted for this offence of rape.
3. It was proved at the conclusion of the hearing that you and your friend took the victim to a unknown place pretending that you were taking him to the house of the person who took his mobile phone at the night club. You and your friend then assaulted and robbed him and put him inside the car. You took him to another place in the country side, where your friend took the rental car of the victim and went away leaving you and the victim at that place. At that time, you threatened the victim to remove his cloths. You were threatening him with a bottle in your hand. The victim had no option but to surrender to you as you were fit, young and holding a bottle in your hand. You then forcefully penetrated your penis into his anus without his consent.
4. The act of rape is the worse form of sexual offence, which not only physically degrades a human being but also emotionally infringes someone life severely. Offenders of such heinous crimes need to be dealt with seriously. It requires an active judicial intervention in order to demonstrate that such offences are condemned and denounced by the civilised society without any reservation.
5. Having considered the section 4 (1) of the sentencing and penalties decree, the main purpose of this sentencing is founded on the principle of deterrence. It is a responsibility of the court, to demonstrate the grave seriousness of the offences of this nature to the public in sentencing. I am mindful of the principle of rehabilitation; however, the court must give priority to deter the offenders and other persons from committing offences of this nature, while preserving the principle of rehabilitation.

6. Tariff for the offence of rape ranges from 7 years to 15 years (State v Marawa[2004] FJHC 338; HAC 0016T.2003S (23 April 2004), The State v Navauniani Koroi (unreported) Cr. App Case No. HAA0050.2002S, The State v Samu Seru (unreported) Suva Crim. Case No. HAC0021.2002S, State v Oteti Sivonatoto, Crim Case No 207 of 2011)

7. Having considered the nature of this offending and the seriousness surrounded with the commission of the offence, I select 7 years as the starting point for the count of rape.

8. The victim treated you and your friend as his friends and treated you well during the evening prior to this incident took place. He bought you drinks, food and took you to a night club. When he found his mobile phone was missing, he trusted you and came back to you seeking assistance. However, instead of response with same gesture of friendship and care, you chose to commit this atrocious crime to the victim. He was in a defenceless position. He was taken to a place unknown to him in the dark and you were threatening him with a bottle in your hand. The victim was 63 years old at the time of this crime committed. I consider these reasons as aggravating factors of this offence.

9. I now turn to consider mitigating factors for you. You have no previous convictions, though you are presently serving a sentence for the offence of aggravated robbery which also related to this action. Hence I consider that you have no previous convictions recorded against you. You were remanded for three months for this offence. You are a young person with no previous criminal convictions and have elderly parents.

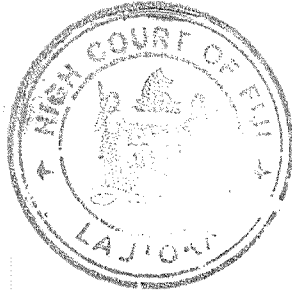
10. Having considered the above mentioned aggravating factors, I increase 2 years to reach 9 years of interim imprisonment period. In considering the mitigating factors which I discussed above, I reduce 1 year to reach the final sentence of 8 years for the offence of rape.
11. Accordingly, Mr. Sione Sadrugu, I sentence you eight (8) years of imprisonment period for the offence of rape contrary to section 207(1) and 207 (2) (a) of the Crimes Decree. In pursuant of section 18 (1) of the Sentencing and Penalties Decree, you are not eligible for parole for a period of 6 years. Your imprisonment period of eight years (8) will commence from the date of this sentencing.
12. 30 days to appeal to Court of Appeal.



R. D. R. Thushara Rajasinghe
Judge

At Lautoka

6th of March 2015



Solicitors : Office of the Director of Public Prosecutions
The Accused person,