

**IN THE HIGH COURT OF FIJI**  
**AT LABASA**  
**CRIMINAL JURISDICTION**

**Criminal Case No. HAC 53 of 2015**

**STATE**

**V**

**ILAISA CAKAU**

**Counsel:** Ms W. Elo for the State  
Mr A. Vakaloloma for the accused

**Date of Trial** : 18,19 April 2016  
**Date of Judgment:** 19 April 2016  
**Date of Sentence:** 20 April 2016

**SENTENCE**

- [1] The accused has been found guilty and convicted by this Court after trial of the digital rape of a 10 year old girl in Taveuni in May, 2014.
- [2] The accused is a 60 year old Pastor of the Assemblies of God Church (AOG), and the girl was in his care living with him and his wife while she was attending school.
- [3] Over a period of four nights at a time when the pastor's wife had gone away to a Conference, the accused subjected the girl to a series of assaults and indignities culminating on the fourth night when he forced her to undress, lay on top of her and



attempted unsuccessfully to have sexual intercourse with her. That having failed he then forced his hand upon her and committed this offence.

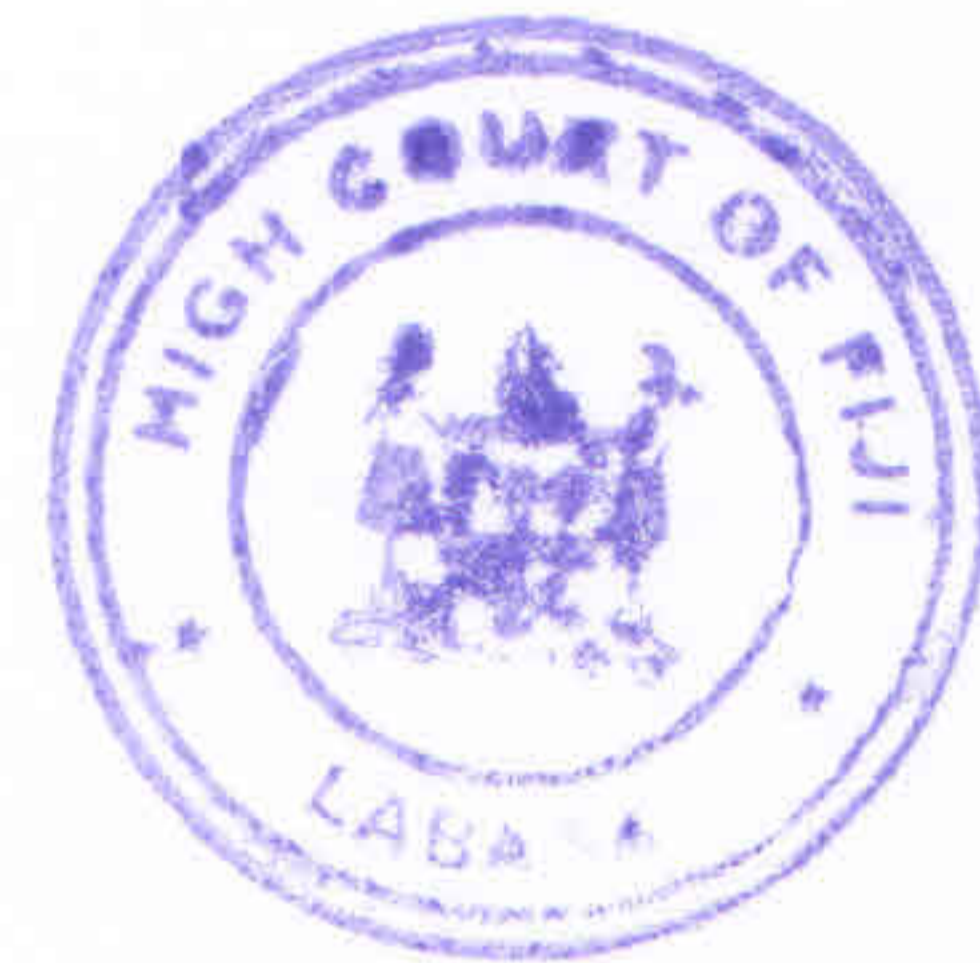
- [4] In a rather pathetic Victim Impact Report written in her own immature hand the girl attests to “sometimes feel the pain my feelings” and “also sometimes it makes me tears and ashamed in front of the public”.
- [5] In mitigation, Mr .Vakaloloma pleads for leniency because in the village his client is regarded as the father figure.
- [6] There is no difference in this Court between a callow youth and a Pastor and the fact that he regards himself as a “father figure” belies the despicable acts he forced on a 10 year old girl in his permanent care. Such a breach of trust is compounded by the breach of trust by a person in care of another’s child and the breach of trust of a Pastor said to be in charge of the spiritual and emotional welfare of a child. This breach is so serious that even defence counsel recognizes it in his written submissions.
- [7] Ministers of Religion whilst not being regarded any differently in Court, have a special role in society to care for the development of their followers and above all to set an example by leading a virtuous and noble life in fitting with their calling.
- [8] This accused clearly failed to live up to those standards.
- [9] The only possible mitigation available to the accused is his hitherto clear record.
- [10] Mr. Vakaloloma submits that his client is remorseful despite his written submission that there is “lack of remorse demonstrated by the accused person for what he has done to the victim, suffering emotionally, physically and psychologically”. This Court agrees with the written rather than the oral submission.
- [11] The age difference of 60 years over 10 years is another significant aggravating factor.
- [12] The maximum penalty for rape is life imprisonment and in following the Supreme Court decision in **Anand Abhay Raj** CAV0003 of 2014, which sets a tariff for rape of a child to be



between 10 and 16 years, I take a starting point of 10 years for the offence. For the preponderance of the aggravating factors in the case I add to the starting point a further 7 years bringing the sentence to an interim total of 17 years imprisonment. To reflect the accused's clear record and the very short time he spent in custody before being bailed I deduct one year meaning that the accused is to serve a total sentence of 16 years imprisonment. He will serve a total of 12 years before being eligible for parole.



**P.K. Madigan**  
**Judge**



At Labasa  
20 April, 2016