

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. 035 of 2016

STATE

v

THOMAS BULL

Counsel: Ms A. Vavadakua for the State.
Ms S. Nasedra (L.A.C) for the Accused

Date of Conviction : 10 May 2017

Date of Sentence : 12 May 2017

SENTENCE

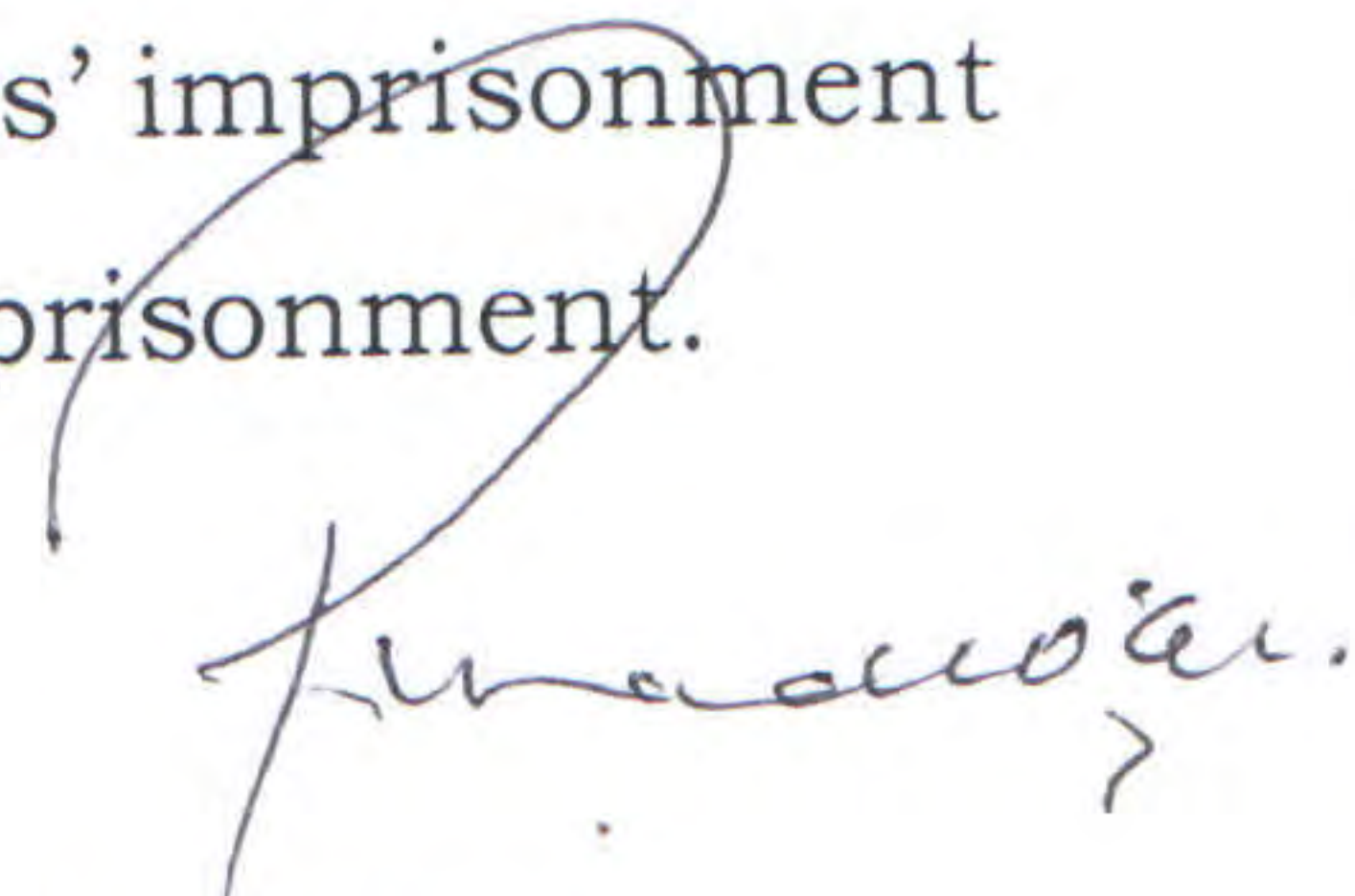
1. The accused has been convicted after trial in this court of one count of rape; he having raped his 12 year old stepdaughter.
2. The accused is the husband of the 12 year old's mother and it is therefore her step-father. On the 22nd June 2016 the mother had gone to Nabuowalu for a few days to care for her sick brother. While she was away the accused stayed in their simple village house looking after the victim and the two young sons of the second marriage.

3. During the night of the 22nd/23rd June the girl awoke to find her father on top of her. He had undressed her and was in the process of penetrating her with his penis.
4. He told her not to shout or say anything. When he had finished and left her she felt blood escaping from her.
5. A few days later when the mother was due back, he gave her \$100 and told her to go up to Labasa and stay with an aunt. The girl told the aunt of the rape and she suggested that she go home and tell her mother which she did. Sadly the mother was unsympathetic and unsupportive and sent the 12 year old on the bus alone to Dreketi to report the incident.
6. The girl being younger than 13, consent to the act is not in issue, nor would it have been in this case.
7. The maximum penalty for rape is life imprisonment and the tariff for rapes of children is a term of imprisonment of between 10 to 16 years (**Anand Abhay Raj** CAV003 of 2014).
8. The accused is 55 years old and married with 3 children under 10. His wife is caring for the family. He had been working as a security man earning only \$120 per fortnight.
9. He is the only income earner for this young family and his nocturnal lust therefore will cost them dearly.
10. As in all cases of family rape, of which unfortunately there are too many in Fiji, there has been a gross breach of trust: a breach of trust given to him by the mother and a breach of the trust given by a young child in his care. That has to be a serious aggravating factor along with the aggravation of nocturnal abuse while the child was sleeping.

11. The accused has a clear record and he was held on remand for approximately 2 months before the matter came to trial.
12. I take a starting point of 12 years imprisonment for the offence. For the aggravation of breach of trust and nocturnal abuse I add a term of 4 years to that total.
13. In recognition of his clear record and the time spent in custody I deduct 2 years. The convicted accused will serve a total term of imprisonment of 14 years imprisonment.
14. Apart from the clear record there is very little mitigation available to the accused. The Court does however recognize the hardship that this sentence will cause to his family and a minimum term before he can be eligible for parole may in some way give the family the prospect of reunion.
15. The accused will spend 10 years in custody before he is eligible to apply for parole.

Summary:

Head sentence : Fourteen years' imprisonment
Minimum term : Ten years' imprisonment.


P.K. Madigan
Judge



At Labasa
12 May 2017