

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION
CRIMINAL CASE NO. HAC 021 OF 2019S

STATE
Vs
SALACIELI RATUMAIDRAVUWALU

Counsels : Ms. K. Semisi for State
Mr. J. Korotini for Accused
Hearings : 2, 3, 4 and 5 June, 2020.
Summing Up : 8 June, 2020.
Judgment : 8 June, 2020.
Sentence : 9 June, 2020.

SENTENCE

1. In a judgment delivered yesterday, the court found you guilty and convicted you on the following two counts in the information:

“COUNT 1

Statement of Offence

RAPE: Contrary to section 207 (1) and (2) (a) of the Crimes Act 2009.

Particulars of Offence

SALACIELI RATUMAIDRAVUWALU between the 1st day of October 2018 and the 31st day of October 2018 at Lami in the in the Central Division had carnal knowledge of MTN without her consent.

COUNT 3

Statement of Offence

RAPE: Contrary to section 207 (1) and (2) (a) of the Crimes Act 2009.

Particulars of Offence

SALACIELI RATUMAIDRAVUWALU on the 4th day of November 2018 at Lami in the in the Central Division had carnal knowledge of MTN without her consent.

2. The brief facts were as follows. You were 62 years old at the time of the offences. The complainant (PW1) was your daughter and 15 years old at the time of the offences. At your house, in your own bedroom, on two separate occasions as alleged in the above counts, you forced yourself on the complainant and had sex with her, without her consent. At the time of offences, you knew she was not consenting to sex with you because she told you to stop. Yet you ignored her protest and continued to offend against her, and you told her “you are the boss of her body”. You had been tried and convicted in the High Court.
3. The offence of rape carried a maximum sentence of life imprisonment (see Section 207 (1) of the Crimes Act 2009). Parliament therefore views the offence as a serious one. It violates the dignity of a person. It is an unwarranted intrusion into the privacy of a person. It is an ultimate act of showing utter disrespect to a person. Therefore those who commit this offence, must expect a lengthy prison sentence to restore the balance, the harmony and atonement to the victim. For the rape of child, that is, anyone less than 18 years old, the tariff is a sentence between 11 and 20 years imprisonment. I refer to the authority of **Gordon Aitcheson v The State**, Criminal Petition CAV 012 of 2018, Supreme Court of Fiji. Of course, the final sentence will depend on the mitigating and aggravating factors.
4. The aggravating factors were as follows:
 - (i) **Breach of Parental Trust.** You are the complainant’s biological father. She is your biological daughter. You were 62 years old at the time of the offence, and the complainant 15 years old. As a father, you were supposed to look after her, care

for her and guide her to become a confident and useful citizen of Fiji in the future. This is the least expected of you as a father to the complainant. Yet you abused the trust she had in you, by doing the unthinkable, that is, raping her on two separate occasions. You had let her down, and must pay the price for offending against your daughter by serving a long prison sentence.

- (ii) **The rape of a child.** Sexual attacks on children are becoming prevalent in our society. As the courts had previously said before and will say again that the children of this country are actually the future of this country. Those who harm our children are harming the future of Fiji. People who rape children must not expect mercy from the courts, and must not complain of a heavy prison sentence.
- (iii) Your offending against the complainant showed your utter disrespect to her right as a child, her right as a human being and her right to a happy and peaceful life. You can see the emotional and psychological stress and damage she was going through while giving evidence in court. You had wrecked the life of this young girl, and it will take her a long time to recover. You will have to be punished for your crimes.

5. The mitigating factors were as follows:

- (i) At the age of 63 years old, this was your first offending;
- (ii) You had been remanded in custody since 11 December, 2018, that is, approximately 1 year 6 months ago.

6. On count no. 1, I start with a sentence of 14 years imprisonment. For the aggravating factors, I add 4 years, making a total sentence of 18 years imprisonment. For time already served while remanded in custody awaiting trial, I deduct 1 year 6 months, leaving a balance of 16 years 6 months. For being a first offender, I deduct 1 year 6 months, leaving a balance of 15 years imprisonment. On count no. 1, I sentence you to 15 years imprisonment.

7. On count no. 3, I repeat the above process and sentence.

8. In summary, your sentences are as follows:
- (i) Count No. 1 (rape) - 15 years imprisonment
 - (ii) Count No. 3 (rape) - 15 years imprisonment.
9. Because of the totality principle of sentencing, I direct that the above sentences be made concurrent to each other, making a final sentence of 15 years imprisonment.
10. Mr. Salacieli Ratumaidravuwalu, for raping the complainant as alleged in counts no. 1 and 3 of the information, I sentence you to 15 years imprisonment, with a non-parole period of 12 years imprisonment, effective forthwith.
11. In addition to the above, a permanent domestic violence order with standard non-molestation conditions is issued for the safety of the complainant. This order will remain subject to the orders of this court.
12. The name of the complainant is permanently suppressed to protect her privacy.
13. You have 30 days to appeal to the Court of Appeal.



Solicitor for the State
Solicitor for the Accused

: **Office of the Director of Public Prosecution, Suva.**
: **Legal Aid Commission, Suva.**

A handwritten signature in blue ink, appearing to read "Salesi Temo".

Salesi Temo
JUDGE