

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**CRIMINAL JURISDICTION**  
**CRIMINAL CASE NO. HAC 047 OF 2019S**

**STATE**  
**Vs**  
**PAULIASI TAURA**

**Counsels** : **Ms. S. Shameen for State**  
**Ms. S. Daunivesi for Accused**  
**Hearings** : **9, 10 and 11 June, 2020.**  
**Summing Up** : **12 June, 2020.**  
**Judgment** : **12 June, 2020.**  
**Sentence** : **15 June, 2020.**

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**SENTENCE**

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1. In a judgment delivered on 12 June 2020, the court found you not guilty and acquitted you of the following information:

***“Statement of Offence***

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

*Particulars of Offence*

***PAULIASI TAURA on the 18<sup>th</sup> day of December 2018 at Makoi in the Central Division penetrated the vagina of AR, with his penis, without her consent.”***

2. The court however found you guilty and convicted you of the lesser offence of “defiling a young person aged between 13 and 16 years”, contrary to section 215 (1) of the Crimes Act 2009. The facts were basically that on 18 December 2018, at Makoi in the Central Division, you unlawfully inserted your penis into the complainant’s vagina, and the complainant was 15 years old at the time. You were 21 years old at the time. At the time, you knew she was 15 years old, because you knew she was born on 17 July 2003 (see paragraph 2 of the Agreed Facts, dated 5 June 2020).
3. Defiling a girl between 13 and 16 years is viewed seriously by Parliament, and it carried a maximum sentence of 10 years imprisonment. The tariff for the offence is a suspended prison sentence to 4 years imprisonment. Cases of virtuous friendship between young people of the same age, which resulted in sexual intercourse, often attracted a suspended prison sentence. Older men who are often in a position of trust who set out to seduce under 16 year old girls often get a prison sentence. See **Elia Donumainasava v The State**, Criminal Appeal No. HAA 032 of 2001S, High Court, Suva; **Etonia Rokowaqa v State**, Criminal Appeal No. HAA 037 of 2004, High Court, Suva and **State v Etonia Kabaura**, Criminal Case No. HAC 117 of 2010S, High Court, Suva.” The final sentence will depend on the aggravating and mitigating factors.
4. The aggravating factors were as follows:
  - (i) **Breach of Trust.** The 15 year complainant ran away from her parent’s, and was residing in your parent’s house. You were 21 years old and staying in your house. The complainant was vulnerable and you exploited that by having sex with her. That was obviously a breach of trust.

- (ii) The age difference between the two of you were 6 years. You were 21 and therefore an adult. The complainant, being 15 years old, was still a child.
  - (iii) By offending against her, you had no regard for her right as a child and her right as a human being.
5. The mitigating factors were as follows:
- (i) At the age of 23 years, this is your first offence;
  - (ii) You have been remanded in custody, awaiting trial, for approximately 9 months.
6. On the defilement conviction, I start with a sentence of 9 months. For the aggravating factors, I add another 9 months, making a total of 18 months imprisonment. For time already served, while remanded in custody awaiting trial, I deduct 9 months, leaving a balance of 9 months imprisonment. For being a first offender at the age of 23 years, I suspend the 9 months imprisonment for 18 months. Meaning of suspended sentence explained to the accused.
7. The name of the complainant is permanently suppressed to protect her privacy.
8. You have 30 days to appeal to the Court of Appeal.



  
**Salesi Temo**  
**JUDGE**

**Solicitor for the State** : **Office of the Director of Public Prosecution, Suva.**  
**Solicitor for the Accused** : **Legal Aid Commission, Suva.**