

IN THE HIGH COURT OF FIJI
AT LABASA
[CRIMINAL JURISDICTION]
CRIMINAL CASE NO.: HAC 28 OF 2019

BETWEEN : STATE

AND : ALIKI RITALAU PRASAD

Counsel : Ms A. Vavadakua for the State
Mr P. Gade and Ms S. Devi for the Accused

Dates of Hearing : 24 - 25 June 2020

Date of Summing Up: 25 June 2020

Date of Judgment: 25 June 2020

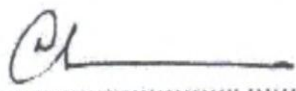

Date of Sentence: 7 July 2020

SENTENCE

- [1] The victim is a 12-year girl and a school student. The offender is her stepfather. He is 35 years old and is a fisherman.
- [2] In February 2019, the offender took the victim and her two younger siblings to a river at Cawaira, Labasa for a swim. When they were at the river, the offender pulled the victim into the water and told her that he was going to touch her private parts. He fondled her genitals over her tights until she started crying when he stopped. He told her not to report the incident to her mother. Later, when the victim's mother came to know about the incident, she reported the matter to police and the offender was arrested and charged with digital rape.
- [3] The offender pleaded not guilty to the charge. He was tried and convicted. He has expressed little remorse for his action.
- [4] Regard must be made to both the objective seriousness of the offence and the seriousness of the actual conduct of the Accused. Digital penetration of a child's

genitals is equally serious as penile penetration (*Ram v State* [2015] FJSC 26; CAV12.2015 (23 October 2015)). The maximum sentence prescribed for digital rape is life imprisonment. For the tariff, I am guided by the decisions in *Raj v State* [2014] FJSC 12; CAV0003.2014 (20 August 2014) and *Aitcheson v State* [2018] FJSC 29; CAV0012.2018 (2 November 2018). The tariff provides a yardstick to maintain consistency in the approach to sentencing.

- [5] The aggravating factor is that the child's trust was breached when the offender sexually violated her as he was her stepfather. The child was vulnerable due to young age and the offender was her guardian.
- [6] The only mitigating factor is that the offender is a person with previous good character. His family circumstances does not mitigate the offence.
- [7] The courts duty is to denounce and deter any form of sexual abuse of children. Rape is a serious form of abuse. It causes serious harm to the victims. The principle purposes of sentence applicable to the offender are denunciation and deterrence.
- [8] Finally, I make a downward adjustment of about one year for the offender's remand period.
- [9] The offender is sentenced to 12 years' imprisonment with a non-parole period of 8 years.
- [10] I issue a domestic violence restraining order with no contact and non-molestation conditions to protect the victim. The offender is to be subject of this order for the rest of his life.


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Hon. Mr Justice Daniel Goundar


Solicitors:
Office of the Director of Public Prosecutions for State
Office of the Director of Legal Aid Commission for Accused