

IN THE HIGH COURT OF FIJI

AT SUVA

[CRIMINAL JURISDICTION]

CRIMINAL CASE NO: HAC 196 of 2019

STATE

V

SANJEET SINGH

Counsel : Ms. Sheenal Swastika for the State
Ms. Swarvana Prakash for the Accused

Dates of Trial : 20-23 July 2020
Summing Up : 28 July 2020
Judgment : 31 July 2020
Sentence Hearing : 10 August 2020
Sentence : 24 August 2020

The name of the complainant is suppressed. Accordingly, the complainant will be referred to as "SSN".

SENTENCE

[1] The accused, Sanjeet Singh, has been found guilty and convicted of the following offences for which he was charged.

COUNT ONE

(Representative Count)

Statement of Offence

RAPE: Contrary to section 207 (1) and (2) (a) and (3) of the Crimes Act 2009.

Particulars of Offence

SANJEET SINGH, between the 1st day of January 2014 to the 31st December 2014, at the Manoca Squatter Settlement, Nausori, in the Eastern Division, had carnal knowledge of **SSN**, a child under the age of 13 years.

COUNT TWO

(Representative Count)

Statement of Offence

RAPE: Contrary to section 207 (1) and (2) (a) and (3) of the Crimes Act 2009.

Particulars of Offence

SANJEET SINGH, between the 1st day of January 2015 to the 31st December 2015, at the Manoca Squatter Settlement, Nausori, in the Eastern Division, had carnal knowledge of **SSN**, a child under the age of 13 years.

COUNT THREE

(Representative Count)

Statement of Offence

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

Particulars of Offence

SANJEET SINGH, between the 1st day of January 2016 to the 31st December 2016, at the Manoca Squatter Settlement, Nausori, in the Eastern Division, had carnal knowledge of **SSN**, without her consent.

COUNT FOUR

(Representative Count)

Statement of Offence

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

Particulars of Offence

SANJEET SINGH, between the 1st day of January 2017 to the 31st December 2017, at the Manoca Squatter Settlement, Nausori, in the Eastern Division, had carnal knowledge of **SSN**, without her consent.

COUNT FIVE

(Representative Count)

Statement of Offence

SEXUAL ASSAULT: Contrary to section 210 (1) (b) of the Crimes Act 2009.

Particulars of Offence

SANJEET SINGH, between the 1st day of January 2017 to the 31st December 2017, at the Manoca Squatter Settlement, Nausori, in the Eastern Division, unlawfully and indecently assaulted **SSN**, by fondling her breasts.

COUNT SIX

(Representative Count)

Statement of Offence

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

Particulars of Offence

SANJEET SINGH, between the 1st day of January 2018 to the 21st October 2018, at the Manoca Squatter Settlement, Nausori, in the Eastern Division, had carnal knowledge of **SSN**, without her consent.

COUNT SEVEN

Statement of Offence

SEXUAL ASSAULT: Contrary to section 210 (1) (b) of the Crimes Act 2009.

Particulars of Offence

SANJEET SINGH, on the 22nd day of October 2018, at the Manoca Squatter Settlement, Nausori, in the Eastern Division, unlawfully and indecently assaulted **SSN**, by fondling her breast.

COUNT EIGHT

Statement of Offence

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

Particulars of Offence

SANJEET SINGH, on the 22nd day of October 2018, at the Manoca Squatter Settlement, Nausori, in the Eastern Division, had carnal knowledge of **SSN**, without her consent.

- [2] The accused was not present during the course of the trial. Thus his trial was held in his absence. However, he was represented during the trial by his Counsel from the Legal Aid Commission.
- [3] Since the accused was not present to take his plea he was deemed to have pleaded not guilty to all the charges. The ensuing trial was held over 4 days. In support of their case, the prosecution called the complainant, **SSN**, her cousin brother, Rajwansh Nikhil Singh, her aunt Sashi Lata and Medical Officer, Dr. Nikotimo Bakani. The prosecution also tendered as Prosecution Exhibit **PE1** the Medical Examination Report of the complainant.
- [4] Since the accused was not present in Court during these proceedings it is assumed that the accused was exercising his right to remain silent. During the cross examination of the complainant, the defence moved to tender to Court a rough sketch of the house where the alleged incidents took place as Defence Exhibit **DE1**.
- [5] At the conclusion of the evidence and after the directions given in the summing up, two of the Assessors found the accused not guilty of all eight counts, while one Assessor found the accused guilty of the six counts of Rape, but not guilty of the two counts of Sexual Assault (Counts 5 and 7). Therefore, the Assessors returned a unanimous verdict

of not guilty in respect of the two counts of Sexual Assault, and a majority verdict of not guilty in respect of the six counts of Rape.

- [6] However, having reviewed the evidence, this Court decided that the unanimous opinion of the Assessors in finding the accused not guilty of the two Sexual Assault charges and the majority decision finding the accused not guilty of the six Rape charges was perverse and not justified. Accordingly, this Court found the accused guilty and convicted him of the said eight charges.
- [7] As could be observed the accused has been found guilty and convicted of two counts of Rape, contrary to 207 (1) and (2) (a) and (3) of the Crimes Act No. 44 of 2009 (Crimes Act) (Counts 1 and 2); four counts of Rape, contrary to Section 207 (1) and (2) (a) of the Crimes Act (Counts 3, 4, 6 and 8); and two counts of Sexual Assault, contrary to Section 210 (1) (a) Crimes Act (Counts 5 and 7). Counts 1 to 6 are all representative counts.
- [8] It must also be mentioned that although in the Statement of Offence in Counts 5 and 7, it has been referred to as Sexual Assault, contrary to Section 210 (1) (b) of the Crimes Act, when reading the Particulars of Offence it is made clear that these are in actual fact counts of Sexual Assault, contrary to Section 210 (1) (a) of the Crimes Act. Thus the accused stands convicted of two counts of Sexual Assault, contrary to Section 210 (1) (a) of the Crimes Act.
- [9] The complainant clearly testified to all the acts that the accused, her step-father, had perpetrated on her, over a prolonged period of time, commencing from on or about 1 January 2014 up until 22 October 2018. This is a period of over 4 and a half years.
- [10] The complainant's date of birth is 10 March 2003. Therefore, at the time the accused first committed these offences, the complainant was merely 10 years of age. The accused continued sexually abusing the complainant until she was 15 years, when finally the matter came to light. As such, the complainant was a juvenile at the time the accused committed these offences on her.
- [11] The Victim Impact Statement of the complainant has been filed in Court. Therein, it is recorded that the complainant has been emotionally and psychologically traumatized by the accused's actions. The impact of his actions on the complainant is said to be continuing, as detailed in the said Victim Impact Statement. Due to the incidents she had to even forgo her education as she had to leave school prematurely.
- [12] In the Victim Impact Statement the complainant has said as follows: *"I wish to tell you Sanjeet Singh that the way you have been spoil me (ruined me), I don't feel sorry for you, and I don't want to see your face again. I feel ashamed of what had happened. I will never forgive you. The only thing I want is for Sanjeet Singh to be taken to prison."*

[13] Section 4(1) of the Sentencing and Penalties Act No. 42 of 2009 ("Sentencing and Penalties Act") stipulates the relevant factors that a Court should take into account during the sentencing process. The factors are as follows:

4. — (1) The only purposes for which sentencing may be imposed by a court are —

(a) to punish offenders to an extent and in a manner which is just in all the circumstances;

(b) to protect the community from offenders;

(c) to deter offenders or other persons from committing offences of the same or similar nature;

(d) to establish conditions so that rehabilitation of offenders may be promoted or facilitated;

(e) to signify that the court and the community denounce the commission of such offences; or

(f) any combination of these purposes.

[14] I have duly considered the above factors in determining the sentence to be imposed on the accused.

[15] As stated before the accused has been found guilty and convicted of two counts of Rape, contrary to 207 (1) and (2) (a) and (3) of the Crimes Act (Counts 1 and 2) and four counts of Rape, contrary to Section 207 (1) and (2) (a) of the Crimes Act (Counts 3, 4, 6 and 8).

[16] The offence of Rape in terms of Section 207(1) of the Crimes Act carries a maximum penalty of imprisonment for life.

[17] The severity of the offence of Rape was highlighted by the Fiji Court of Appeal in the case of *Mohammed Kasim v. The State* [1994] FJCA 25; AAU 21 of 93 (27 May 1994); where it was stated:

"...It must be recognized by the Courts that the crime of rape has become altogether too frequent and that the sentences imposed by the Courts for that crime must more nearly reflect the understandable public outrage."

[18] In the case of *State v. Marawa* [2004] FJHC 338; HAC 16T of 2003S (23 April 2004); His Lordship Justice Anthony Gates stated:

"Parliament has prescribed the sentence of life imprisonment for rape. Rape is the most serious sexual offence. The Courts have reflected increasing public intolerance for this crime by hardening their hearts to offenders and meting out harsher sentences."

*"A long custodial sentence is inevitable. This is to mark the gravity of the offence as felt, and correctly so, by the community. Imprisonment emphasizes the public's disapproval and serves as a warning to others who may hitherto regard such acts lightly. One must not ignore the validity of the imposition of condign punishment for serious crime. Lastly the sentence is set in order to protect women from such crimes: **Roberts and Roberts** (1982) 4 Cr. App R(5) 8; **The State v Lasaro Turagabeci and Others** (unreported) Suva High Court Crim. Case No. HAC0008.1996S."*

[19] In *The State v Lasaro Turagabeci and Others* (supra) Pain J had said:

"The Courts have made it clear that rapists will be dealt with severely. Rape is generally regarded as one of the gravest sexual offences. It violates and degrades a fellow human being. The physical and emotional consequences to the victim are likely to be severe. The Courts must protect women from such degradation and trauma. The increasing prevalence of such offending in the community calls for deterrent sentences."

[20] His Lordship Justice Daniel Goundar, in the case of *State v. AV* [2009] FJHC 24; HAC 192 of 2008 (2 February 2009); observed:

"...Rape is the most serious form of sexual assault. In this case a child was raped. Society cannot condone any form of sexual assaults on children. Children are our future. The Courts have a positive obligation under the Constitution to protect the vulnerable from any form of violence or sexual abuse. Sexual offenders must be deterred from committing this kind of offences"

[21] In the case of *State v. Tauvoli* [2011] FJHC 216; HAC 27 of 2011 (18 April 2011); His Lordship Justice Paul Madigan stated:

"Rape of children is a very serious offence indeed and it seems to be very prevalent in Fiji at the time. The legislation has dictated harsh penalties and the Courts are imposing those penalties in order to reflect society's abhorrence for such crimes. Our nation's children must be protected and they must be allowed to develop to sexual maturity unmolested. Psychologists tell us that the effect of sexual abuse on children in their later development is profound."

[22] In the case of *Felix Ram v. The State* [2015] FJSC 26; CAV 12 of 2015 (23 October 2015); His Lordship Chief Justice Anthony Gates laid down the following factors that a Court should take into account when sentencing an offender who has been convicted of Rape:

- (a) whether the crime had been planned, or whether it was incidental or opportunistic;*
- (b) whether there had been a breach of trust;*
- (c) whether committed alone;*
- (d) whether alcohol or drugs had been used to condition the victim;*
- (e) whether the victim was disabled, mentally or physically, or was specially vulnerable as a child;*
- (f) whether the impact on the victim had been severe, traumatic, or continuing;*
- (g) whether actual violence had been inflicted;*
- (h) whether injuries or pain had been caused and if so how serious, and were they potentially capable of giving rise to STD infections;*
- (i) whether the method of penetration was dangerous or especially abhorrent;*
- (j) whether there had been a forced entry to a residence where the victim was present;*
- (k) whether the incident was sustained over a long period such as several hours;*
- (l) whether the incident had been especially degrading or humiliating;*
- (m) If a plea of guilty was tendered, how early had it been given. No discount for plea after victim had to go into the witness box and be cross-examined. Little discount, if at start of trial;*
- (n) Time spent in custody on remand;*
- (o) Extent of remorse and an evaluation of its genuineness;*
- (p) If other counts or if serving another sentence, totality of appropriate sentence."*

[23] Furthermore, His Lordship Justice Goundar in ***State v Apisai Takalaibau*** – Sentence [2018] FJHC 505; HAC 154 of 2018 (15 June 2018); making reference to statistics of Aggravated Burglary cases filed in the High Court in 2017 and 2018, stated that "A factor that influences sentencing is the prevalence of the offence in the community.....The more prevalent is an offence, the greater the need is for deterrence and protection of the community."

[24] This has also been affirmed by the Supreme Court in ***Alfaaz v. State*** [2018] FJSC 17; CAV0009.2018 (30 August 2018); where it was recognized that the prevalence of cases of child rape calls for harsher punishments to be imposed by Courts. Their Lordships held:

"According to the statistics released by the Director of Public Prosecutions Office it appears that a number of rape victims as well as victims under the age of 18 years and victims in domestic relationships or relatives were also victims of other serious sexual offences. The rape of children is a very serious offence and it is very frequent and prevalent in Fiji. The courts must impose harsh penalties dictated by the legislation. The courts should not leniently look at this kind of serious cases of rape of children of tender years when punishing the offenders."

[25] In the case of **Anand Abhay Raj v. The State** [2014] FJSC 12; CAV 0003 of 2014 (20 August 2014); Chief Justice Gates (with Justice Sathya Hettige and Madam Justice Chandra Ekanayake agreeing) endorsed the view that Rapes of juveniles (under the age of 18 years) must attract a sentence of at least 10 years and the acceptable range of sentences or sentencing tariff is between 10 and 16 years imprisonment.

[26] However, in the case of **Aitcheson v State** [2018] FJSC 29; CAV0012 of 2018 (2 November 2018); His Lordship Chief Justice Gates stated that the sentencing tariff for the Rape of a juvenile should now be increased to between 11 and 20 years imprisonment. His Lordship held:

*"The tariff previously set in **Raj v The State** [2014] FJSC 12 CAV0003.2014 (20th August 2014) should now be between 11-20 years imprisonment. Much will depend upon the aggravating and mitigating circumstances, considerations of remorse, early pleas, and finally time spent on remand awaiting trial for the final sentence outcome. The increased tariff represents the denunciation of the courts in the strongest terms."*

[27] In **Aitcheson v State** (*Supra*), it was said:

[72] Undoubtedly it has been accepted by the society that rape is the most serious sexual offence that could be committed on a woman. Further it is said that; "A murderer destroys the physical body of his victim; a rapist degrades the very soul of a helpless female."

[28] In determining the starting point within the said tariff, the Court of Appeal, in **Laisiasa Koroivuki v. State** [2013] FJCA 15; AAU 0018 of 2010 (5 March 2013); has formulated the following guiding principles:

"In selecting a starting point, the court must have regard to an objective seriousness of the offence. No reference should be made to the mitigating and aggravating factors at this time. As a matter of good practice, the starting point should be picked from the lower or middle range of the tariff. After adjusting for the mitigating and aggravating factors, the final term should fall within the tariff. If the final term falls either below or higher than the tariff, then the sentencing court should provide reasons why the sentence is outside the range."

[29] In the light of the above guiding principles, and taking into consideration the objective seriousness of the offences, I commence the accused's sentences at 11 years imprisonment for each of the counts of Rape.

[30] The aggravating factors are as follows:

- (i) The accused had subjected the complainant to a campaign of rape, which commenced on or about 1 January 2014 and continued up until 22 October 2018. This was a prolonged period of over 4 and a half years.
- (ii) The accused was the complainant's step-father. It is admitted that the complainant had been under the accused's care for over 13 years. Thus the complainant trusted the accused. As such, the accused should have protected and safeguarded the complainant. Instead the accused breached the trust expected from him and the breach was gross.
- (iii) There was a large disparity in age between the accused and the complainant. At the time the accused began committing these offences on the complainant she was merely 10 years of age. At the time accused was 39 years of age. Therefore, the accused was nearly 29 years older than the complainant.
- (iv) The accused took advantage of the complainant's vulnerability, helplessness and naivety. As indicated before, the accused commenced perpetrating these offences on the complainant when she was merely 10 years of age and continued sexually abusing her until she was 15 years.
- (v) The accused exposed the innocent mind of a child to sexual activity at such a tender age, and thereby robbed the complainant of her innocence.
- (vi) There was a significant degree of planning involved on the part of the accused in committing these offences. In most instances the accused waited for the other occupants of the house to leave so that he could prey on the complainant. In certain instances, he even prevented the complainant from going to school on time so as to fulfil his sexual desires.
- (vii) The impact of the crimes on the complainant was traumatic and is said to be continuing.
- (viii) The accused had used violence or threatened to use violence on the complainant when she refused or resisted from being sexually abused.
- (ix) The accused is now convicted of multiple offending.

[31] Since the accused was not present during these proceedings his Counsel submitted that she would not be in a position to file any submissions in mitigation on his behalf. The

only matters that she could advert to was the fact that the accused is now 45 years of age (His date of birth being 29 October 1974) and that he is first offender.

- [32] The accused is a first offender. The State too confirms that there are no previous convictions recorded against him. Therefore, Court considers the accused as a person of previous good character.
- [33] Considering the aforementioned aggravating factors, I increase his sentences by a further 9 years in respect of each count of Rape. Now his sentences for the counts of Rape is 20 years imprisonment.
- [34] For his previous good character I grant the accused a discount of 2 years. Now his sentences for each of the counts of Rape is 18 years imprisonment.
- [35] The accused has been found guilty and convicted of two counts of Sexual Assault in terms of Section 210 (1) (a) of the Crimes Act respectively (Counts 5 & 7).
- [36] The offence of Sexual Assault in terms of Section 210 (1) of the Crimes Act carries a maximum penalty of 10 years imprisonment.
- [37] In the cases of *State v. Abdul Khaiyum* [2012] FJHC 1274; Criminal Case (HAC) 160 of 2010 (10 August 2012); and *State v. Epeli Ratabacaca Laca* [2012] FJHC 1414; HAC 252 of 2011 (14 November 2012); Justice Madigan proposed a tariff between 2 years to 8 years imprisonment for offences of Sexual Assault in terms of Section 210 (1) of the Crimes Act.
- [38] It was held in *State v. Laca* (supra) "The top of the range is reserved for blatant manipulation of the naked genitalia or anus. The bottom of the range is for less serious assaults such as brushing of covered breasts or buttocks."

"A very helpful guide to sentencing for sexual assault can be found in the United Kingdom's Legal Guidelines for Sentencing. Those guidelines divide sexual assault offending into three categories:

Category 1 (the most serious)

Contact between the naked genitalia of the offender and naked genitalia, face or mouth of the victim.

Category 2

- (i) Contact between the naked genitalia of the offender and another part of the victim's body;
- (ii) Contact with the genitalia of the victim by the offender using part of his or her body other than the genitalia, or an object;

- (iii) Contact between either the clothed genitalia of the offender and the naked genitalia of the victim; or the naked genitalia of the offender and the clothed genitalia of the victim.

Category 3

Contact between part of the offender's body (other than the genitalia) with part of the victim's body (other than the genitalia)."

- [39] In this case, as per Counts 5 and 7, it has been proved that the accused unlawfully and indecently assaulted the complainant, by fondling her breasts. Therefore, in my opinion, the offences in Counts 5 and 7 should be categorized under Category 3 above.
- [40] As such, in the light of the above guiding principles, and taking into consideration the objective seriousness of the offences, I commence his sentences at 2 years imprisonment for the fifth and seventh counts of Sexual Assault, in terms of Section 210 (1) (a) of the Crimes Act.
- [41] Considering the aggravating factors aforementioned, which are common for all offences, and the sole mitigating factor, which is his previous good character, I impose on the accused a sentence of 6 years' imprisonment for the fifth and seventh counts of Sexual Assault respectively.
- [42] In the circumstances, the sentences imposed on the accused are as follows:
- Count 1 – Rape contrary to Section 207 (1) and (2) (a) and (3) of the Crimes Act – 18 years' imprisonment.
 - Count 2- Rape contrary to Section 207 (1) and (2) (a) and (3) of the Crimes Act – 18 years' imprisonment.
 - Count 3 – Rape contrary to Section 207 (1) and 2 (a) of the Crimes Act – 18 years' imprisonment.
 - Count 4- Rape contrary to Section 207 (1) and 2 (a) of the Crimes Act – 18 years' imprisonment.
 - Count 5- Sexual Assault contrary to Section 210 (1) (a) of the Crimes Act – 6 years' imprisonment.
 - Count 6 – Rape contrary to Section 207 (1) and 2 (a) of the Crimes Act – 18 years' imprisonment.
 - Count 7 - Sexual Assault contrary to Section 210 (1) (a) of the Crimes Act – 6 years' imprisonment.

Count 8- Rape contrary to Section 207 (1) and 2 (a) of the Crimes Act – 18 years' imprisonment.

[43] Section 22 (1) of the Sentencing and Penalties Act provides that *"Subject to sub-section (2), every term of imprisonment imposed on a person by a court must, unless otherwise directed by the court, be served concurrently with any uncompleted sentence or sentences of imprisonment."* [Emphasis is mine].

[44] However, taking into consideration the nature and the gravity of the offences and the accused's culpability and degree of responsibility for the offences, and also taking into consideration the aggravating factors which I have detailed, I am of the opinion that this is not an appropriate case for the accused to be imposed a concurrent sentence. It is my opinion that this is a fit and proper case for the accused to be imposed consecutive sentences.

[45] The complainant testified that the reason she did not report the matter earlier to anybody was because the accused had threatened that if she told anyone he will kill both her and her mother. The complainant said that on one occasion the accused had threatened her as follows:

"I did not say anything because he told me that if you will tell this to anyone, then I will kill your mother and I will let you stay with me or else he will kill both of us and go to jail. And he also used to say that if you will tell this to anyone, no one will believe you."

[46] When asked as to how frequently the accused subjected her to these acts of Rape the complainant said (in reference to the incidents which took place in the year 2014): *"Sometimes 2 to 3 times in a week when no one is there, and in months – every month."*

[47] In reference to the incidents which took place in the year 2015 the complainant testified thus: *"It used to be 2 to 3 times a week – sometimes whole of the week. Sometimes one month and not the other month. I don't exactly remember the exact dates – but he used to do it months and weeks. Sometimes when he is busy at work, he doesn't but otherwise he did."*

[48] For these reasons I am firmly of the view that imposing a concurrent sentence on all counts the accused has been convicted of would be totally unjust. Accordingly, I order that the sentences imposed for Counts One (18 years' imprisonment), Two (18 years' imprisonment), Three (18 years' imprisonment), Four (18 years' imprisonment) and Six (18 years' imprisonment) to be served consecutive to each other. The sentence imposed for Count Five would be concurrent to Count Four, while the sentences imposed for Counts Seven and Eight would be concurrent to the sentence imposed for Count Six. Accordingly, the accused would have to serve a term of imprisonment of 90 years.

[49] However, this is where I am faced with a dilemma. The maximum sentence for Rape as provided by the Legislature is life imprisonment. My dilemma is whether to impose a

high term of imprisonment (which I have computed as above to be 90 years) or whether to sentence the accused to a term of life imprisonment. After much deliberation I have decided that the accused should be imposed life imprisonment, which is the maximum sentence for the offence of Rape. In computing the non-parole period to be imposed on the accused I would take into consideration the sentence that I computed as above.

[50] Accordingly, I sentence the accused to a term of life imprisonment. Pursuant to the provisions of Section 18 of the Sentencing and Penalties Act, I order that the accused is not eligible to be released on parole until he serves 45 years of that sentence.

[51] Section 24 of the Sentencing and Penalties Act reads thus:

"If an offender is sentenced to a term of imprisonment, any period of time during which the offender was held in custody prior to the trial of the matter or matters shall, unless a court otherwise orders, be regarded by the court as a period of imprisonment already served by the offender."

[52] The accused was in remand custody for this case from 20 May 2019 to 29 June 2020, when he was granted bail by this Court. Accordingly, the accused has been in custody for a total period of nearly 13 months. The period he was in custody shall be regarded as period of imprisonment already served by him. I hold that a period of 13 months should be considered as served in terms of the provisions of Section 24 of the Sentencing and Penalties Act.

[53] In the result, the final sentence is as follows:

Head Sentence	-	Life imprisonment.
Non-parole period	=	45 years imprisonment.

Considering the time the accused has spent in remand, the time remaining to be served is as follows:

Head Sentence	-	Life imprisonment.
Non-parole period	-	43 years and 11 months imprisonment.

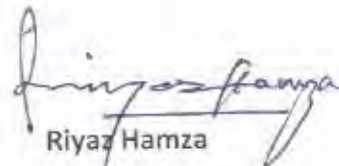
[54] The accused has 30 days to appeal to the Court of Appeal if he so wishes.

[55] For the avoidance of any doubt, the appealable period shall run from today. However, the sentence imposed on the accused shall begin to run only from the day he is apprehended by the Police.

[56] I wish to emphasize, the fact that the accused was not present during the course of these proceedings had no bearing on the sentence being imposed on him. The accused absents himself from Court was his own seeking.

[57] That said, it is most regrettable that the accused has been absenting himself from this Court since 20 July 2020, the day on which his trial was to commence. That is a period of 35 days. A bench warrant was issued on the accused immediately on the said day. However, he has still not been arrested. It is a very sad reflection on the Police Department as to how an offender could abscond and evade justice for such a long period of time. I urge the authorities to strengthen their efforts in apprehending the accused so that justice could be duly meted out to him.




Riyaz Hamza
JUDGE
HIGH COURT OF FIJI

AT SUVA

Dated this 24th Day of August 2020

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