

**IN THE HIGH COURT OF FIJI**

**AT LAUTOKA**

**[CRIMINAL JURISDICTION]**

**CRIMINAL CASE NO. HAC 58 OF 2018**

**BETWEEN : STATE**

**AND : JOELI RAVULALA**

*Counsel : Mr. A. Singh with Mr. R. Chand for the State  
Ms. V. Diroiroi for the Accused*

*Hearing on : 17<sup>th</sup> & 18<sup>th</sup> of November 2020*

*Summing up on : 24<sup>th</sup> of November 2020*

*Judgment on : 29<sup>th</sup> of January 2021*

*Sentence on : 31<sup>st</sup> of March 2021*

## **SENTENCE**

1. Mr. Joeli Ravulala, you have been found guilty and convicted of a count of 'Rape' alleged to have committed on Ulamila Salomi, who is related to you as sister-in-law.
2. You pleaded not guilty to the charge and the ensuing trial lasted for 2 days. The complainant Ulamila gave evidence for the prosecution, you gave evidence in defence. After the summing up, the three assessors unanimously found you guilty to the alleged count of Rape. This court having reviewed the evidence, agreed with

the opinion of the Assessors and found you guilty and convicted you of the said count.

3. It was proved during the trial that, you being a relation of Ulamila, took advantage of her poverty and helplessness to fulfill your sexual desires.
4. Section 4 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. I have duly considered these factors in determining the sentence to be imposed on you.
5. The offence of Rape carries in terms of Section 207(1) of the Crimes Act No. 44 of 2009, a maximum penalty of imprisonment for life.
6. 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."*

7. 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”.*

8. In the **State v Lasaro Turagabeci and Others** [1996] FJHC 173; HAC0008.1996S (27 November 1996) 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.”*

9. It is apparent the present accepted tariff for the offence of an adult is 07 to 15 years of imprisonment as for **State v Naicker** [2015] FJSC 537; HAC 279 of 2013 (15 July 2015).
10. In consideration of the above tariff as well as the principles laid down in **Laisiasa Koroivuki v State** [2013] FJCA 15; AAU 0018 of 2010 (5 March 2013), I will commence your sentence at 7 years of imprisonment.
11. The aggravating factors are as follows:
- (i) The victim has suffered psychologically.
  - (ii) There was breach of trust.

12. Considering the aforementioned aggravating factors, I enhance your sentence by further 2 years. Now your sentence is 9 years of imprisonment.
13. Your counsel has indicated that you have no previous convictions or any pending cases and has maintained a clean character. You are said to be remorseful. In consideration of all the mitigating factors I will deduct 2 years. Therefore your final sentence is 07 years of imprisonment.
14. Accordingly, I sentence you to a term of imprisonment of 07 years. Pursuant to the provisions of Section 18 of the Sentencing and Penalties Act, and having duly considered all the relevant factors, I order that you are not eligible to be released on parole until you serve 4 years and 6 months of that sentence.
15. 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.”*

16. You were arrested on the 15<sup>th</sup> of March 2018. You were in remand till granted bail on the 19<sup>th</sup> of April 2018. Thereafter, at the commencement of the trial on the 17<sup>th</sup> of November 2020, you were remanded and is in remand since then. Altogether, you have been in custody for a period of over 5 and ½ months. I will deduct 6 months in lieu of that as the period you were in custody shall be regarded as period of imprisonment already served by you. I hold that a period of 6 months should be

considered as served in terms of the provisions of Section 24 of the Sentencing and Penalties Act.

17. In result, you are sentenced to a term of imprisonment of 7 years with a non-parole period of 04 ½ years. Considering the time you have spent in remand, the time remaining to be served is as follows:

Head Sentence	-	06 years and 6 months.
Non-parole period	-	04 years.

18. You have 30 days to appeal to the Court of Appeal if you desire so.



**Chamath S. Morais**  
**JUDGE**

At Lautoka

31<sup>st</sup> March 2021

<i>Solicitors for the State</i>	:	<i>Office of the Director of Public Prosecutions</i>
<i>Solicitors for the Accused</i>	:	<i>Legal Aid Commission, Lautoka</i>