

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**CRIMINAL JURISDICTION**

**Crim. Case No: HAC 161 of 2023**

**STATE**

vs.

**SAIRUSI MOROCI**

<b>Counsel:</b>	Ms. S. Bibi with Ms. U. Tamanikaiyaroi for the State Mr. S. Ravu for Accused
<b>Dates of Hearing:</b>	06 <sup>th</sup> to 08 <sup>th</sup> March 2024
<b>Date of Closing Submission:</b>	27 <sup>th</sup> March 2024
<b>Date of Judgment:</b>	26 <sup>th</sup> April 2024
<b>Date of Sentence:</b>	03 <sup>rd</sup> May 2024

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**SENTENCE**

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1. Mr. Sairusi Moroci, on the 26th of April 2024, the Court found you guilty of three counts of Rape, contrary to Section 207 (1) (2) (a) of the Crimes Act and convicted you of the same accordingly.
2. It was proved during the hearing that you penetrated the vagina of the Complainant with your penis without her consent on three separate occasions. The Complainant is your

stepdaughter living with you and your family during the period that you committed these three offences.

3. Rape is one of the most humiliating and distressing crimes. It violates the physical self of a person and destroys the personal dignity and self-autonomy of a person. Therefore, Rape is a serious offence.
4. The primary purpose of this sentence is founded on the principle of deterrence. It is the responsibility of the Court to deter offenders or other persons from committing offences of the same or similar nature and protect the community from offenders of this nature.
5. The maximum sentence for Rape is life imprisonment. The tariff for the offence of Rape involving a juvenile victim ranges from eleven (11) years to twenty (20) years of imprisonment period.
6. These three offences are founded on the same series of offences. Therefore, the Court finds it appropriate to impose an aggregate sentence according to Section 17 of the Sentencing and Penalties Act.
7. The Victim Impact Report details the extent of the emotional and psychological effect this offence has caused to the Complainant. It has adversely changed the Complainant into a withdrawn, scared person. In view of these facts, the level of harm in this offence is significantly high.
8. You had employed a fair amount of physical and verbal force on the Complainant, ensuring she would not inform others about these crimes. You waited until your wife left home to find an opportunity to unleash this disgraceful sexual assault on your stepdaughter. Considering these facts, I find the level of culpability in this offence is high.
9. Considering the serious nature of these offences, the purpose of the sentence, the level of harm and the level of culpability, I select fourteen (14) years as the starting point.

10. You have breached the trust the Complainant had in you as the stepfather. The age difference between you and the Complainant is significantly high. I consider this ground an aggravating factor in this offence.
11. In his mitigation submissions, the learned Counsel for the Defence submitted your personal and family background, which I do not find any mitigatory value.
12. You are a first offender. There is no evidence or information before this Court to consider your general reputation in society, and there is no information about any significant contribution you have made to the community (*vide Sections 4 and 5 of the Sentencing and Penalties Act*). Considering these reasons, you are entitled to a meagre discount for your previous character.
13. In view of the reasons discussed above, I increased further three (3) years for the aggravating factors to reach seventeen (17) years. Because of your previous character, I reduced one (01) year. Accordingly, I have reached sixteen (16) years of imprisonment, which is your final sentence.
14. Considering the seriousness of this crime, the purpose of this sentence, your age and the opportunity for rehabilitation, I find fourteen (14) years of the non-parole period would serve the purpose of this sentence. Hence, you are not eligible for parole for fourteen (14) years pursuant to Section 18 (1) of the Sentencing and Penalties Act.

### **Head Sentence**

15. Accordingly, I sentence you to sixteen (16) years imprisonment as an aggregate sentence for these three counts of Rape contrary to Section 207 (1) (2) (a) of the Crimes Act. Moreover, you are not entitled to parole for fourteen (14) years pursuant to Section 18 (1) of the Sentencing and Penalties Act.

### Actual Period of the Sentence

16. You were in remand custody for this case for nearly four (4) months and four (4) days. Accordingly, I consider five (05) months a period of imprisonment you have already served.
17. Accordingly, the actual sentencing period is **fifteen (15) years and seven (07) months** imprisonment with a non-parole period of **thirteen (13) years and seven (07) months**.
18. Since this incident involves domestic violence, I am satisfied that there are sufficient grounds to consider making an order under the Domestic Violence Act. I accordingly make a Permanent Domestic Violence Restraining Order against you with standard non-molestation conditions under Sections 24 and 28 of the Domestic Violence Act. The above Domestic Violence Restraining Order will be in force until this Court or any other competent Court verifies or suspends it. Furthermore, if you breach this restraining order, you will be charged and prosecuted for an offence under Section 77 of the Domestic Violence Act.
19. Thirty (30) days to appeal to the Fiji Court of Appeal.



At Suva

03<sup>rd</sup> May 2024

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**Hon. Mr. Justice R. D. R. T. Rajasinghe**

### Solicitors

Office of the Director of Public Prosecutions for the State.

Office of the Legal Aid Commission for the Accused.