

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Criminal Case No. HAC 358 of 2023

BETWEEN : **STATE**

AND : **MANASA SAQANACEVA**

Counsel : **Mr J Singh for the State**
Mr Prasad for the Accused

Judgment : **4 April 2024**

Mitigation/Submissions : **11 April 2025**

Sentence : **24 April 2025**

SENTENCE

(the name of the victim is suppressed, she is referred to as 'SY')

- [1] Manasa Saqanaceva, you appear today for sentence. You have been found guilty following a defended trial of one count of rape and one count of sexual assault against the victim, SY.
- [2] SY was 17 years old at the time of your offending and, therefore, a juvenile. You were 48 years old.
- [3] SY was alone at home on the afternoon of 21 November 2023. She was studying for her school exams. You appeared at her door asking to use the bathroom. SY allowed you into the house. After using the bathroom, you assaulted SY inside the house, first putting your arms around SY hugging her tightly, then kissing her neck and cheeks. After this, you placed SY on the floor and penetrated her vagina with your fingers.

- [4] The following mitigation has been provided on your behalf:
- You are now 49 years old and employed.
 - You are a first offender.
- [5] The maximum penalty prescribed for rape is **life imprisonment**. The tariff for the rape of a juvenile is between 11 to 20 years imprisonment. The maximum penalty for sexual assault is **10 years imprisonment** and I take note of the categories described by the High Court in *State v Laca* [2012] FJHC 1414 (14 November 2012). I am satisfied that the facts for your offending for count 1 fall within category 3.
- [6] The two counts relate to the same occasion and it is appropriate to take an aggregate for these counts.
- [7] In assessing the objective seriousness of your offending in this matter, I have considered the maximum sentence prescribed for rape along with the tariff for rape of juveniles, the tariff for sexual assault, the degree of culpability, and the manner in which you committed the offence. I give proper consideration to the sentencing guidelines stipulated in section 4 of the Sentencing and Penalties Act 2009. In my view, the appropriate starting point for your offending is 11 years.
- [8] The aggravating factors that are present here are:
- i. **Vulnerable victim:** SY was 17 years old. You violated her in her own home stripping SY of any confidence that she is safe in her home.
 - ii. **Breach of trust:** You are related to SY's mother and regularly cut the grass at her compound. SY will have trusted you when she allowed you into her home.
 - iii. **Age difference:** There is an age disparity between you and SY of 31 years.
 - iv. **Impact on victim:** SY has completed a Victim Impact Statement. She states that your offending has affected her in many different ways. She is scared to leave the house. She is scared to talk to boys and shy even around her friends. She is unable to concentrate at school. SY will be left with the psychological harm caused by your offending for a long time.

- [9] I add 1½ years for these aggravating factors taking your sentence to 12½ years.
- [10] I will now consider the mitigating factors. You are 49 years old and up until this offending you were of previous good character. I deduct 2 years for mitigating factors leaving a balance of 10½ years imprisonment.
- [11] I will now consider your non-parole period. The court must impose a non-parole period where you have received a sentence of 2 years or more unless I consider the nature of your offending or your past history make the fixing of a non-parole period inappropriate. While you were of previous good character, in my view, the prevalence of sexual offending on children and young persons in Fiji require that a non-parole period is imposed on you. The court must strike a balance between deterrence on the one hand and not discouraging rehabilitation on the other. In all the circumstances, in my view, a reasonable non-parole period for you is 7½ years.
- [12] It is important that there is a measure of consistency between your sentence and sentences for other offenders in similar cases like yours. The defence has brought to my attention two previous sentences of the High Court. In *State v Tuisavura* [2020] FJHC 910 (26 October 2020) the offender, aged 40 years, raped the 15 year old victim with his finger and with his penis. The High Court sentenced the offender to imprisonment of 12 years with a non-parole period of 8 years 4 months. In *Tuinaserau v State* [2024] FJCA 99 (30 May 2024) the Court of Appeal reduced the sentence of the offender from 17 years 8 months (with a non-parole period of 16 years) to 11 years (with a non-parole period of 9 years). The offender was aged 32 years. He digitally raped his 4 year old niece. I am satisfied that your sentence is consistent with the sentences in the two previous cases.
- [13] Finally, I note that you have already spent about 4 months and 2 weeks on remand.¹ Pursuant to section 24 of the Sentencing and Penalties Act, I reduce your sentence by the time already spent on remand so that the result is that your actual sentence is 10 years, 1 month and 2 weeks and your non-parole period is 7 years, 1 month and 2 weeks.
- [14] Mr Saqanaceva, would you please stand. You have been found guilty of rape and sexual assault against SY. The rape of a juvenile is a grave offence. No doubt, your conviction will have brought much hurt and shame to your own family. However, you have caused

far greater harm to SY's family and to SY herself. You have taken from SY what should have been the joys and excitement of coming into adulthood. Instead she has psychological scars that will be lifelong.

[15] I make the following orders:

- i. You are sentenced to imprisonment for a period of 10 years, 1 month and 2 weeks with a non-parole period of 7 years, 1 month and 2 weeks.
- ii. The victim, SY, will have permanent name suppression.
- iii. You have 30 days to appeal to the Court of Appeal.



D.K.L Tuiqereqere
JUDGE

Solicitors:

Office of Director of Public Prosecutions for the State

Office of Legal Aid Commission for the Accused