

IN THE HIGH COURT OF FIJI
AT SUVA
[CRIMINAL JURISDICTION]

CRIMINAL CASE NO: HAC 168 OF 2023

STATE

-v-

RATU ORISI SERU

Counsel : Ms. P. Ram for the State
: Ms. Dean, A for the Accused

Date of Trial : 29 October, 2024
Date of Judgment : 14 July, 2025
Sentencing Submissions : 23 July, 2025
Date of Sentence : 25 July, 2025

SENTENCE

[The name of the complainant will be suppressed and referred to as “LV”].

- [1] Ratu Orisi Seru, after trial the court finds you guilty and now you stand convicted of Defilement of a girl between 13 and 16 years of age contrary to section 215 (1) of the *Crimes Act, 2009*.
- [2] Initially you were charged with one count of Sexual Assault and two counts of rape. Before the trial commenced, the State made an application to file an amended information reducing the charge to one count of Defilement of Young Person between 13 and 16 years of age.
- [3]. The amended Information was read and explained to you and you pleaded not guilty. The trial commenced.

Sentencing Guidelines

- [4]. Before sentencing you, this court has considered sections 4(1), 4(2) and 4(3) of the *Sentencing and Penalties Act, 2009*.

Law and Tariff

- [5]. The maximum penalty for this offence is 10 years' imprisonment.
- [6]. The tariff for defilement is between suspended sentences to 4 years imprisonment *Elia Donumainasava v State* [2001] HAA 32/01S, (18 May 2001). In *State v Pita Vetaukula* a Criminal Case No. HAC 46 of 2013 (8 July 2014), the Court stated that suspended sentences are appropriate in cases of non-exploitive relationship between persons of similar age, while custodial sentences are appropriate in cases of sexual exploitation of younger girls by older men or men who hold position of authority over the girls.
- [7]. In *Vetaukula* (supra), the offender was sentenced to 18 months' imprisonment after he pleaded guilty to a charge of defilement. The offender was the headman of the village. He was 22 years old when he defiled a 15 year old girl from his village. In sentencing the offender the court said:

The courts have a duty to protect the young girls from any form of sexual exploitation. In cases of sexual exploitation of young girls, the primary purpose of the sentence is general deterrence. Rehabilitation of the offender is a secondary purpose.

Aggravating Factors

- [8]. In the present case, the complainant was a much younger person when you defiled her. She was only 15 years old and a school girl. You were 8 years older than her. She is also closely related to you. As a result of your exploitation she got pregnant and gave birth to a son. You did not genuinely love her. You only used her to satisfy your lust.
- [9]. The incident only came to light when the complainant was pregnant. To reflect the above aggravating factors, the purposes of sentence that apply to you is denunciation and deterrence, both special and general.

Mitigating Factors

- [10] Your personal circumstances and the fact that, this is your first offence.

Sentence

- [11] I use 2 years as my starting point and increase your sentence to 3 years to reflect the aggravating factors. I reduce your sentence by 1 year to reflect your mitigating factors and I make a further reduction of 1 month to reflect your remand period.
- [12] Your final term of imprisonment is 1 year and 11 months imprisonment.
- [13] You are to serve a custodial term of 1 year and 11 months effective from today.

Appeal Period

[14]. 30 days to appeal to the Fiji Court of Appeal.



A handwritten signature in blue ink, appearing to read "Waleen M George", is written over a horizontal dotted line.

**Waleen M George
Acting Puisne Judge**

**Solicitors: Office of the Director of Public Prosecutions – State
Legal Aid Commission - Accused**