

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Crim. Case No: HAC 271 of 2023

STATE

v

- 1. NOA NAISUQE [JUVENILE]**
- 2. MOAPE TIKOMAIOSITERELIA NAIVUADAMANU [JUVENILE]**
- 3. SAULA VOSANALAWE [JUVENILE]**
- 4. WAME CAGICAUCAU [JUVENILE]**

Counsel: Mr. J. Singh for the State
Ms. R. Nabainivalu for the 1st Accused
Mr. I. Emasi for the 2nd & 4th Juvenile
Ms. S. Narayan for the 3rd Juvenile

Date of Mitigation & Punishment Hearing: 25 July 2025

Date of Punishment: 11 August 2025

PUNISHMENT

Caveat – The victim is herein referred to as **‘BOB’** pursuant to the Name Suppression Order.

1. **Noa Naisuqe (1st accused), Moape Tikomaiositerelia Naivuadamanu (2nd accused), Saula Vosanalawe (3rd accused) and Wame Cagicaucou (4th accused)** are all juveniles respectively charged and tried for the 7 Counts of *Rape* and 1 Count of *Sexual assault*, laid out as follows in the Consolidated Information by the Acting Director of Public Prosecutions dated 11 April 2024 and filed on 12 April 2024:

COUNT 1

Statement of Offence

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

Particulars of Offence

NOA NAISUQE, on an unknown date between 1st January 2018 and 31st December 2018, at Naqara village, Kadavu, in the Eastern Division, penetrated the anus of **BOB** with his penis, a child below the age of 13 years.

COUNT 2

Statement of Offence

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

Particulars of Offence

NOA NAISUQE, on an occasion other than mentioned in count 1, at Naqara village, Kadavu, in the Eastern Division, penetrated the anus of **BOB** with his penis, a child below the age of 13 years.

COUNT 3

Statement of Offence

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

Particulars of Offence

MOAPE TIKOMAIOSITERELIA NAIVUADAMANU, on an unknown date between 1st January 2018 and 31st December 2018, at Naqara Village, Kadavu, in the Eastern Division, penetrated the mouth of **BOB** with his penis, a child below the age of 13 years.

COUNT 4

Statement of Offence

RAPE: Contrary to Section 207(1), (2)(c) and (3) of the Crimes Act 2009.

Particulars of Offence

SAULA VOSANALAWE, on an unknown date between 1st January 2018 and 31st December 2018, at Naqara village, Kadavu, in the Eastern Division, penetrated the mouth of **BOB** with his penis, a child below the age of 13 years.

COUNT 5

Statement of Offence

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

Particulars of Offence

SAULA VOSANALAWE, on an unknown date between 1st January 2018 and 31st December 2018, at Naqara village, Kadavu, in the Eastern Division, penetrated the anus of **BOB** with his penis, a child below the age of 13 years.

COUNT 6

Statement of Offence

RAPE: Contrary to Section 207(1), (2)(c) and (3) of the Crimes Act 2009.

Particulars of Offence

SAULA VOSANALAWE, on an unknown date between 1st January 2018 and 31st December 2018, at Naqara village, Kadavu, in the Eastern Division, penetrated the mouth of **BOB** with his penis, a child below the age of 13 years.

COUNT 7

Statement of Offence

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

Particulars of Offence

SAULA VOSANALAWE, on an unknown date between 1st January 2018 and 31st December 2018, at Naqara village, Kadavu, in the Eastern Division, unlawfully and indecently assaulted **BOB**, by taking his hand and making the said **BOB** touch his penis.

COUNT 8

Statement of Offence

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

Particulars of Offence

WAME CAGICAUCAU, on an unknown date between 1st January 2018 and 31st December 2018, at Naqara village, Kadavu, in the Eastern Division, penetrated the mouth of **BOB** with his penis, a child below the age of 13 years.

2. On 17 May 2024, Saula Vosanalawe (3rd accused) was acquitted of Count 7: Sexual Assault for *no case to answer* under section 231(1) of the Criminal Procedure Act 2009.
3. On 27 June 2025, after trial, the four juveniles were respectively found guilty of *Rape* as per the indictment:
 - Noa Naisuqe (1st accused) – Counts 1 & 2: Rape
 - Moape Tikomaiositerelia Naivuadamanu (2nd accused) - Count 3: Rape
 - Saula Vosanalawe (3rd accused) - Counts 4, 5 & 6: Rape
 - Wame Cagicaucou (4th accused) - Counts 8: Rape
4. Plea in mitigation and punishment hearing was held on 25 July 2025, and this is the Court's finding on punishment.

5. **Brief facts of the Rape**

PW1 BOB, the complainant, was born on 10 December 2011 and hails from Naqara village in Kadavu, and in 2018, he was 7 years old and in class 1 at Naqara District School in Kadavu. Between January to December 2018, during the long school holiday towards the end of 2018, PW1 BOB was raped by Noa Naisuqe (1st accused), Moape Tikomaiositerelia Naivuadamanu (2nd accused), Saula Vosanalawe (3rd accused) and Wame Cagicaucou (4th accused), and the summary of each rape as per the indictment are provided as follows:

Noa Naisuqe (1st accused) - Counts 1 & 2: Rape

Count 1: At the bush adjacent to the farm where they collect vegetables, Noa Naisuqe told PW1 to pull down his pants, which he did, Noa Naisuqe then took out his *polo* or penis and put it inside PW1's bum.

Count 2: At the bush at Qarataima, Noa Naisuqe told PW1 to pull down his pants, which he did, Noa Naisuqe then took out his *polo* or penis and put it inside PW1's bum.

Moape Tikomaiositerelia Naivuadamanu (2nd accused) – Count 3: *Rape*

Count 3: In the old cement school beside the drain broken down by a digger, Moape Tikomaiositerelia Naivuadamanu told PW1 to go under the desk and drink his *polo* or penis, which PW1 did whereby Moape Tikomaiositerelia Naivuadamanu penetrated PW's mouth with his penis.

Saula Vosanalawe (3rd accused) - Counts 4, 5 & 6: *Rape*

Count 4: At the bush near the pig house, Saula Vosanalawe told PW1 to put his pants down and drink his *polo* or penis, which PW1 did whereby Saula Vosanalawe penetrated PW1's mouth with his penis until Saula Vosanalawe ejaculated.

Count 5: In the mangroves, Saula Vosanalawe told PW1 to pull his pants down and bend down, which PW1 did, and then Saula Vosanalawe put his *polo* or penis inside PW1's anus.

Count 6: At the bush near the pig house, Saula Vosanalawe told PW1 to put his pants down and drink his *polo* or penis, which PW1 did whereby Saula penetrated PW1's mouth with his penis until Saula Vosanalawe ejaculated.

Wame Cagicaucou (4th accused) – Count 8: *Rape*

Count 8: In the old cement school beside the drain broken down by a digger, Wame Cagicaucou told PW1 to go under the desk and drink his *polo* or penis, which PW1 did whereby Wame Cagicaucou penetrated PW1's mouth with his penis.

Rape punishment analysis

6. *Rape* is contrary to section 207(1) & (2)(a) of the Crimes Act 2009, and the maximum penalty is life imprisonment.
7. The punishment tariff for rape of a child including persons under 18 years is 11 to 20 years imprisonment according to Aitcheson v State [2018] FJSC 29; CAV0012.2018 (2 November 2018).
8. The complainant and victim **BOB** was 7 years old when raped, thus a '*child*' pursuant to section 2 of the Juveniles Act (Cap 56) and section 2(1) of the Interpretation Act (Cap 7).
9. At the time of the rape, the four juvenile perpetrators were respectively aged, Noa Naisuqe (1st accused) – 16 years [D.O.B – 29/11/2002]; Moape Tikomaiositerelia Naivuadamanu (2nd accused) - 15 years [D.O.B – 8 June 2003]; Saula Vosanalawe (3rd accused) - 13 years [D.O.B – 12/09/2005]; and Wame Cagicaucou (4th accused) - 16 years [D.O.B – 12/12/2002].
10. Given their respective age, Noa Naisuqe (1st accused), Moape Tikomaiositerelia Naivuadamanu (2nd accused), and Wame Cagicaucou (4th accused) were therefore '*young persons*' according to section 2 of the Juveniles Act (Cap 56), however, Saula Vosanalawe (3rd accused) was a '*child*' pursuant to section 2 of the Juveniles Act (Cap 56) and section 2(1) of the Interpretation Act (Cap 7).

Punishment for '*young person*' and '*child*' under Juveniles Act (Cap 56)

11. Notwithstanding the punishment tariff for child rape strictly for purposes of the two-tiered punishment approach, and Noa Naisuqe (1st accused), Moape Tikomaiositerelia Naivuadamanu (2nd accused), and Wame Cagicaucou (4th accused) being '*young persons*', and Saula Vosanalawe (3rd accused) a '*child*', sections 30(1) & (3) and 32(1) – (2) of the Juveniles Act (Cap 56) clearly state:

30.-(1) No child shall be ordered to be imprisoned for any offence.

(3) A young person shall not be ordered to be imprisoned for more than two (2) years for any offence.

32.-(1) Where a juvenile is tried for an offence and the court is satisfied of his guilt, the court shall take into consideration the manner in which, under the provisions of

this or any other written law, the case should be dealt with, namely-

- (a) by discharging the offender under section 44 of the Penal Code;*
- (b) by ordering the offender to pay a fine, compensation or costs;*
- (c) by ordering the parent or guardian of an offender to pay a fine, compensation or costs;*
- (d) by ordering the parent or guardian of the offender to give security for the good behaviour of the offender;*
- (e) by making a care order in respect of the offender;*
- (f) by making a [community-based corrections order] in respect of the offender;*
- (g) where the offender is a young person, by ordering him to be imprisoned [subject to s.30(3)];*
- (h) by dealing with the case in any other lawful manner.*

(2) Nothing in this section shall be construed as in any way restricting the power of the court to make any order or combination of orders which it is empowered to make under this or any other written law except that no juvenile shall be ordered to undergo corporal punishment.

12. Based on sections 30(1) & (3) and 32(1) – (2) of the Juveniles Act (Cap 56) noted above, read in conjunction with the Community-Based Corrections Act 2018, I shall now consider the mitigating *vis-à-vis* aggravating factors of the rape in Counts 1, 2, 3, 4, 5, 6 and 8 of the indictment.

Mitigating factors

Noa Naisuqe (1st accused)

13. Ms. Nabainivalu Counsel for the *young person* Noa Naisuqe pleaded in mitigation that he:

- 1) was born on 29 November 2002 and 16 years of age at the time of the rape, but now aged 22 years.
- 2) has no prior violation of the law, and of good character.
- 3) is the youngest of 4 siblings, and now single handedly raised by his mother since his father passed away when he was in kindergarten.
- 4) currently resides at Veiquwawa Settlement, Jittu Estate, Suva, with his mother, in an open corrugated iron house with one bedroom, while his older siblings namely, Sala, Ilai and Vuta, are working and raising their own families.
- 5) is usually visited by his older siblings who are ensuring that he does not violate the law

again, and continue instructing him to remain staying with their mother and not to cave in to peer pressure.

- 6) currently works at the wharf situated at Walu Bay, Suva, delivering fish, and the income derived from this employment has enabled him to build a small wooden extension to their dwelling home at Veiquwawa Settlement, Jittu Estate, Suva. Thus far, he has managed to complete the floor, and will later erect the wall and roof.
- 7) is now attending and an active member of the Veiquwawa Seventh Day Adventist Church for purposes of improving his life, and has been doing so since being released from the Juvenile Center, confirmed by Selevasio Korabaranisavu, Church Clerk, in his letter dated 15 July 2025.
- 8) is assisted by his church cell group leader Mr. Eroni Sukanaivalu in his spiritual, mental and physical growth, and maintain the path of the straight and narrow.
- 9) was on remand for 4 months.

Moape Tikomaiositerelia Naivuadamanu (2nd accused)

14. Mr. Emasi Counsel for the *young person* Moape Tikomaiositerelia Naivuadamanu pleaded in mitigation that he:

- a) was born on 8 June 2003 and 15 years of age at the time of the rape, but now aged 22 years.
- b) has no prior violation of the law, and of good character.
- c) is in a *de facto* relationship with his partner who is also pregnant with his child, and he intends to marry her.
- d) currently resides at Delainavesi, with his uncle, and a member of the methodist youth of the Delainavesi circuit.
- e) currently works at Hampton Pacific in Lami, earning \$200 weekly.
- f) was on remand for 15 days.

Saula Vosanalawe (3rd accused)

15. Ms. Narayan Counsel for the *child* Saula Vosanalawe pleaded in mitigation that he:

- 1) was born on 12 September 2005 and 13 years of age at the time of the rape, but now aged 19 years.
- 2) has no prior violation of the law, and of good character.
- 3) currently stays with his mother at Khalsa Road.
- 4) is employed as a Landscaper at the New Zealand Embassy in Suva, and earns \$180 weekly.
- 5) financially supports his parents and two younger siblings of tender age.
- 6) is planning to enroll at the Fiji National University in 2026 to study Mechanical Engineering.
- 7) a devoted member of the youth department of Life Tabernacle United Pentecostal Church, Samabula, Suva, affiliated with the United Pentecostal Church International of Fiji, confirmed by Senior Pastor Reverend Timoci Nadavo, in his letter dated 17 July 2025.

Wame Cagicaucou (4th accused)

16. Mr. Emasi Counsel for the *young person* Wame Cagicaucou pleaded in mitigation that he:

- a) was born on 12 December 2002 and 16 years of age at the time of the rape, but now aged 22 years.
- b) has no prior violation of the law, and of good character.
- c) is in a *de facto* relationship with his partner who is also pregnant with his child.
- d) currently resides at Narere, Nasinu, with his aunt and uncle, and a member of the Assemblies of God youth of Ono, Kadavu.
- e) is a subsistence farmer.
- f) was on remand for 21 days.

Aggravating factors

17. The following **aggravating factors** are taken into consideration:

- a) *Vulnerable victim*: The victim BOB was 7 years old and a class 1 student at Naqara District School in Kadavu, when he was taken to a secluded place and raped by Noa Naisuqe (16 years), Moape Tikomaiositerelia Naivuadamanu (15 years), Saula Vosanalawe

(13 years), and Wame Cagicaucou (16 years), at Naqara village in Kadavu, during the long school holiday towards the end of 2018.

- b) *Opportunistic rape*: The four juveniles had acted opportunistically and abhorrently, in taking the victim 7 year old BOB to a secluded place to be alone with him, and then raped him.
- c) *Breach of trust and loss of innocence of child*: The four juveniles reside with the victim BOB at Naqara village in Kadavu, and are somewhat related, and violated that relationship and associated trust when they raped BOB, and concurrently exposed BOB to horrendous and traumatic sexual ordeals at a very tender age of 7, thus robbing BOB of his innocence as a child.
- d) *Risk of STD infections*: The victim BOB was raped by four juveniles via penile penetration of the anus and mouth, which incidents of rape exposed BOB to the incumbent risk of being infected with STD including HIV.
- e) *Trauma on victim*: The victim BOB has undoubtedly suffered emotional and psychological trauma due to being raped by the four juveniles, and may therefore need proper and effective counselling for purposes of relieving him of such trauma. In the *Victim Impact Statement* dated 10.05.2024, BOB noted as follows: ‘1. Always afraid of them (Wame, Noa, Moape & Saula); 2. Being bullied by other children in the village; 3. Verbally abused and branded by villagers; 4. One time Wame’s mother came home and argued with my mother regarding the offence; 5. Always helpless when ordered by Saula to follow him; 6. In 2023 I have to move to my uncle’s place in Ba to continue my primary education (Class 6).’ This shows that Naqara village is no longer a safe haven for the victim BOB from sexual exploiters and rapists, and the relationship with some of his relatives and villagers have certainly been strained, thus he may find it tremendously difficult to reconnect and reconcile with his village and its inhabitants.
- f) *Prevalence of child rape*: Child rape is becoming prevalent in Fiji, and extremely alarming when it is perpetrated by juveniles. It is a scourge and menace to the entire society,

compelling the need for holistic means to properly and effectively deter and prevent such societal bane. Deterrence is therefore highly warranted, weighed together with *inter alia* the objectives of punishment, retribution and rehabilitation.

Determination of custodial punishment for young persons Noa Naisuqe, Moape Tikomaioisiterelia Naivuadamanu and Wame Cagicaucau

Noa Naisuqe (1st accused – young person)

18. In terms of the aggregate punishment for Counts 1 & 2: Rape, considering the objective seriousness of the offending, I choose a starting point of 1 year, and enhance it by 1 year for the aggravating factors, reduce the 2 years by 6 months for the mitigating factors, and further reduce the 1 year 6 months by 4 months for time spent in custody, resulting in the aggregate punishment of **1 year 2 months imprisonment**.

19. The custodial punishment of 1 year 2 months is to be wholly suspended for 2 years bearing in mind section 30(3) of the Juveniles Act (Cap 56) which states that '*[a] young person shall not be ordered to be imprisoned for more than two years for any offence*', read in conjunction with section 26 of the Sentencing & Penalties Act 2009. See also State v Khan FJCA 235; AAU139.2017 (24 February 2023), at paragraphs 55 – 61, and State v Chand [2002] FJCA 50; AAU0027U.2000S (1 March 2002), on suspended sentence.

20. Noa Naisuqe is also hereby explained that if he commits another offence punishable by imprisonment during the 2 years suspension period, he may be tried for that latter offence, and if found guilty, the court may wholly or partly activate the 1 year 2 months custodial punishment.

Moape Tikomaioisiterelia Naivuadamanu (2nd accused – young person)

21. Considering the objective seriousness of Count 3: Rape, I choose a starting point of 1 year, and enhance it by 1 year for the aggravating factors, reduce the 2 years by 6 months for the mitigating factors, and further reduce the 1 year 6 months by 15 days for time spent in custody, resulting in the punishment of **1 year 5 months 15 days imprisonment**.

22. The custodial punishment of 1 year 5 months 9 days is to be wholly suspended for 2 years

bearing in mind section 30(3) of the Juveniles Act (Cap 56) read in conjunction with section 26 of the Sentencing & Penalties Act 2009.

23. Moape Tikomaiositerelia Naivuadamanu is also hereby explained that if he commits another offence punishable by imprisonment during the 2 years suspension period, he may be tried for that latter offence, and if found guilty, the court may wholly or partly activate the 1 year 5 months 15 days custodial punishment.

Wame Cagicaucou (4th accused – young person)

24. Considering the objective seriousness of Count 8: Rape, I choose a starting point of 1 year, and enhance it by 1 year for the aggravating factors, reduce the 2 years by 6 months for the mitigating factors, and further reduce the 1 year 6 months by 21 days for time spent in custody, resulting in the punishment of **1 year 5 months 9 days imprisonment**.

25. The custodial punishment of 1 year 5 months 9 days is to be wholly suspended for 2 years bearing in mind section 30(3) of the Juveniles Act (Cap 56) read in conjunction with section 26 of the Sentencing & Penalties Act 2009.

26. Wame Cagicaucou is also hereby explained that if he commits another offence punishable by imprisonment during the 2 years suspension period, he may be tried for that latter offence, and if found guilty, the court may wholly or partly activate the 1 year 5 months 9 days custodial punishment.

27. The primary reason as to why the custodial punishments for Noa Naisuqe, Moape Tikomaiositerelia Naivuadamanu and Wame Cagicaucou are below the relevant tariff of 11 to 20 years for child rape is because of the statutory limitations for punishment of 'young persons' provided under section 30(3) read in conjunction with section 32(1) – (2) of the Juveniles Act (Cap 56).

Determination of punishment for the child Saula Vosanalawe (3rd accused)

28. Pursuant to section 30(1) of the Juveniles Act (Cap 56), no order for imprisonment can be made against Saula Vosanalawe, who was a *child* when committing Counts 4, 5 and 6: Rape,

however, Saula Vosanalawe shall be subjected to certain orders by this Court for purposes of punishment.

CONCLUSION

29. The juveniles Noa Naisuqe, Moape Tikomaiositerelia, Saula Vosanalawe and Wame Cagicaucou have been found guilty of *Rape* as per Counts 1, 2, 3, 4, 5, 6 and 8 in the Consolidated Information by the Acting Director of Public Prosecutions, and hereby **PUNISHED** and **ORDERED** by this Court as follows:

- 1) The *young person* **Noa Naisuqe** is punished with 1 year 2 months imprisonment, which custodial punishment is wholly suspended for 2 years.
- 2) The *young person* **Moape Tikomaiositerelia Naivuadamanu** is punished with 1 year 5 months 15 days imprisonment, which custodial punishment is wholly suspended for 2 years.
- 3) The *young person* **Wame Cagicaucou** is punished with 1 year 5 months 9 days imprisonment, which custodial punishment is wholly suspended for 2 years.
- 4) Noa Naisuqe, Moape Tikomaiositerelia Naivuadamanu and Wame Cagicaucou have been duly explained that if they commit another offence punishable by imprisonment during the 2 years suspension period, they may be tried for that latter offence, and if found guilty, the court may wholly or partly activate their respective custodial punishments.
- 5) **Noa Naisuqe, Moape Tikomaiositerelia Naivuadamanu and Wame Cagicaucou must be counselled** by the Social Welfare Department for the 2 years duration of their suspended custodial punishment. Counselling is compulsory.
- 6) The *child* **Saula Vosanalawe must** also be **counselled** by the Social Welfare Department for the same 2 years period as the aforesaid *young persons*. Counselling is compulsory.
- 7) The parents and/or guardians of the *young persons* Noa Naisuqe, Moape Tikomaiositerelia Naivuadamanu, Wame Cagicaucou and *child* Saula Vosanalawe, **must** accompany the juvenile and be present during the counselling sessions for purposes of *inter alia* helping the juvenile to avoid being in conflict with the law.
- 8) The parents and/or guardians of the juveniles are to ensure that they comply with all instructions and directives given by the Social Welfare Department.

- 9) The juveniles **must** refrain from watching pornography via electronic and non-electronic means including documents.
 - 10) All juveniles **must** secure and maintain legitimate employment always.
 - 11) All juveniles **must** attempt to enroll in formal education via legitimate tertiary learning institutions for purposes of upskilling oneself.
 - 12) All juveniles **must** remain attending their respective churches, and be diligently involved in the legitimate activities of that church of their choice, geared towards the betterment of physical and spiritual wellbeing.
 - 13) The victim BOB **must** neither be contacted, intimidated, threatened, coerced, nor interfered with in any manner or form, by the juveniles and other person(s).
30. A copy of this punishment is to be served on the Officer-in-Charge of the Social Welfare Department, Suva.
31. Thirty (30) days to appeal to the Fiji Court of Appeal.



.....
Hon. Mr. Justice Pita Bulamainivalu
PUISNE JUDGE

At Suva

11 August 2025

Solicitors

Office of the Director of Public Prosecutions for the State
Legal Aid Commission for all the juvenile accused persons