

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No: HAC 54 of 2024

STATE

V

SHEIK KARIM

Counsel : **Ms. E. Thaggard for the State**
: **Ms. R. Raj for the Accused**

Sentencing Hearing : **19 August 2025**

Date of Sentence : **26 September 2025**

SENTENCE

1. On 12 August 2025, Mr. Sheik Karim (“the offender”) was convicted after trial of one count of indecent assault, contrary to section 212(1) of the Crimes Act 2009 (count 1), and one count of rape, contrary to section 207(1) and (2)(a) of the Crimes Act 2009 (count 2).
2. The facts may be shortly stated.
3. Between January to April 2024, the complainant, who I shall refer to as “CC”, and her younger sister were living with her aunty and four cousins in a flat rented from the offender. The flat was under the same roof as the offender’s home.
4. On the evening of 27 April 2024, her aunty went to drink grog, leaving CC, her younger sister and four younger cousins home alone. She told the children

not to go anywhere, and to close the door.

5. That evening, the offender knocked on their door and told the children to go and sleep at his place. Reluctantly, they went to the offender's place, where CC lay on the settee, and the other children lay on a mat in the sitting room. The offender removed CC's pants and undergarment, lay on top of her, and penetrated her vulva with his penis (count 2). She felt pain inside. She kicked the offender. He fell down, and she ran outside.
6. Before this incident, the offender used to tell CC to take things to his kitchen. He would then touch her bum and breasts over her clothes. This first happened just after they moved in (count 2).
7. At the time of the offending, the offender was 79 years of age. CC was a 13-year-old schoolgirl

Prosecution sentencing submissions

8. The prosecution relies on written submissions dated 18 August 2025, which were developed at the sentencing hearing.
9. The relevant guideline judgment provides that the sentencing range for rape of a child is 11 to 20 years' imprisonment. Sentences for indecent assault range from 12 months imprisonment to 4 years' imprisonment.
10. The prosecution submits that the offending is made more serious because it was plainly premeditated, and involved a degree of planning. The offender was aware that the children were often left home alone, and he took advantage of that to lure CC to his home in order to sexually abuse her. Particular emphasis is placed on the offender's serious breach of trust. He was CC's landlord and next-door-neighbour. He told the children that they were not safe home alone, and should go to his place. Trusting the offender's intentions, and despite her aunt's instructions not to leave home, CC took the children to the offender's place. By sexually abusing her, the offender breached CC's trust in him.

Defence sentencing submissions

11. The defence relies on written submissions dated 18 August 2025, and Ms. Raj made oral submissions at the sentencing hearing.
12. By way of background, I am informed that the offender is 81 years old. He suffers from ischemic heart disease, hypertension, dyslipidemia, renal impairment, asthma, and nicotine dependence condition. He also suffers from lower urinary tract symptoms associated with enlarged prostate.
13. Ms. Raj was somewhat constrained in what she could say in mitigation given that the offender maintains his innocence.
14. Nevertheless, Ms. Raj said all that she properly could on the offender's behalf. Apart from his clear record, the main thrust of Ms. Raj's submissions was that there are special sentencing principles applicable to elderly offenders. Ms. Raj cited Shameem J's *dicta* in *Rokota v The State* [2002] FJHC 168; HAA 0068J.2002S (23 August 2002) that:

“Recognition of age as a mitigating factor does not mean that imprisonment should never be imposed on elderly offenders, and the Court has upheld sentences of imprisonment on men in their seventies. It is however a long-established principle that a sentence should normally be shortened so as to avoid the possibility that the offender will not live to be released.”
15. Ms. Raj also quoted extensively what was said by the Court of Appeal in the recent guideline judgment for the setting of minimum terms in murder and attempted murder cases in which mandatory sentences of life imprisonment are imposed: ***Vuniwai v State*** [2024] FJCA 100; AAU 176.2019 (30 May 2024).
16. In *Vuniwai*, the Court set out how and why advanced age might influence a sentencing decision. It also set out some key points against taking advanced age as a significant factor in setting minimum terms in murder cases:

- (i) The need to deliver justice for the victim can outweigh considerations of the offender's advanced age;
- (ii) Regardless of age, individuals must be held fully accountable for heinous crimes. Allowing age to significantly mitigate the sentence could be seen as undermining the gravity of the offence;
- (iii) Sentences should be consistent and fair, ensuring that all individuals, regardless of age, are subject to the same legal standards. Making significant allowances for age could create disparities and perceptions of inequality;
- (iv) Reducing sentences for elderly offenders could set a precedent that might be seen as unjust or overly lenient, potentially leading to challenges in future cases;
- (v) Leniency based on age might weaken the deterrent effect of the legal system, suggesting that older individuals could commit serious crimes with less severe consequences. Ensuring that even elderly offenders receive appropriate sentences serves to reinforce the message that serious crimes will be met with serious consequences;
- (vi) The public's confidence in the justice system can be undermined if it appears that older offenders receive undue leniency. Ensuring that sentences reflect the seriousness of the crime helps maintain trust and respect for the legal system;
- (vii) The justice system must ensure that society is protected from individuals who have committed serious crimes;
- (viii) The principle of retributive justice emphasizes that offenders deserve to be punished in proportion to the severity of their crimes. Age should not significantly diminish the punitive aspect of sentencing for severe offences;
- (ix) The rights and perspectives of victims and their families are paramount.

They may view a lenient sentence due to the age as insufficient justice for the harm inflicted.

Discussion and disposal

17. The maximum sentences for rape and indecent assault are life imprisonment and 5 years' imprisonment respectively. The guideline judgment for rape of a child indicates that the appropriate sentencing range is 11 to 20 years' imprisonment.
18. Turning my attention to the purposes of sentencing, as set out in section 4 of the Sentencing and Penalties Act 2009, I have had regard to a combination of the statutory purposes.
19. My principal focus in determining the just and proportionate sentence in this case is protection of the community. I also consider it important in cases such as this for the sentence imposed to adequately signify that the court and the community denounce the commission of sexual offending against children.
20. Protection of the community is my overriding purpose in light of my concluded view that the offender is a danger to children in his community. The fact that the offender continues to maintain his innocence adds to my disquiet in this regard. His offending involved a pattern of behaviour culminating in the rape of CC.
21. Given that the offending took place over a relatively short period, and involved a single victim, I consider it appropriate to impose an aggregate sentence reflecting the totality of the offending behaviour.
22. **Mr. Sheik Karim**, I take 12 years' imprisonment as the starting point for the aggregate sentence to reflect the objective seriousness of your offending across both counts. Balancing the aggravating and mitigating factors, I adjust the starting point upwards to 14 years' imprisonment. The factors that make your offending more serious, including your gross breach of trust and the presence of other young children, outweigh your limited mitigation by a considerable margin.

23. I do not consider that your advanced age and state of health have any value in mitigation. It is the experience of this Court that serious sexual offending against children by elderly and infirm men is prevalent in the community. In my view, the imperative to protect our children against the lascivious attentions of morally bankrupt old men requires sentencing courts to cast aside any qualms that elderly offenders may not outlive appropriate sentences.
24. I fix your non-parole period at 12 years, which I consider reflects the appropriate punitive element of your sentence, and also provides a reasonable incentive for rehabilitative efforts on your part.
25. You have been in custody pending disposal of this matter since you were convicted on 12 August 2025. I round that period up to 2 months, which is to be regarded as a period of imprisonment that you have already served.
26. Accordingly, the remaining time you must serve before being eligible to be released on parole is 11 years 10 months.
27. **Mr. Sheik Karim**, for the reasons I have explained, the sentence I impose is 14 years' imprisonment, less the time you have already served on remand. Your non-parole period is 11 years 10 months from today.
28. You may appeal to the Court of Appeal within 30 days.



A handwritten signature in black ink, consisting of a large, stylized "H" followed by a long, horizontal stroke that tapers to the right.

Hon. Mr. Justice Burney

At Labasa

26 September 2025

Solicitors

**Office of the Director of Public Prosecutions for the State
Office of the Legal Aid Commission for the Accused**