

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

**CRIMINAL CASE NO. HAC 091 OF 2025**

**STATE**

**V**

**JONE NAVATUILAGI RUKUNATURAGA**

**Counsel** : Ms. E. Cabemaiwai for the State.  
: Ms. L. Taukei for the Accused.

**Dates of Mitigation Submissions** : 06 and 28 October, 2025  
**Date of Sentence** : 11 November, 2025

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**SENTENCE**

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*(The name of the victim is suppressed, she will be referred to as M.I)*

1. The accused is charged by virtue of the following information filed by the Director of Public Prosecutions dated 18<sup>th</sup> August, 2025.

**COUNT ONE**

*Statement of Offence*

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

*Particulars of Offence*

JONE NAVATUILAGI RUKUNATURAGA, on the 6<sup>th</sup> of July 2025 at Yasawa Islands, in the Western Division, penetrated the vagina of “M.I” with his finger, without her consent.

**COUNT TWO**

*Statement of Offence*

**ASSAULT CAUSING ACTUAL BODILY HARM:** Contrary to section 275 of the Crimes Act 2009.

*Particulars of Offence*

JONE NAVATUILAGI RUKUNATURAGA, on the 6<sup>th</sup> of July 2025 at Yasawa Islands, in the Western Division, unlawfully assaulted “M.I” by punching her face.

2. On 3<sup>rd</sup> September 2025, the accused pleaded not guilty to count one (Rape) but pleaded guilty to count two (Assault Causing Actual Bodily Harm) in the presence of his counsel. Thereafter, on 16<sup>th</sup> September 2025, the accused admitted the summary of facts read by the state counsel. The brief summary of facts was as follows:

- a) On 6<sup>th</sup> July 2025, the victim was staying at Mali & Ruci’s Homestay, located at Waya Lilai on Yasawa Islands. She was sleeping in her room when she woke up and realized that someone was inside. It was later established that this intruder was the accused.
- b) The victim grabbed the accused’s shirt tightly, as a result, she was dragged outside the room. At that moment, the accused punched the victim in the face, causing her to fall to the ground. The accused then fled the scene.

- c) The matter was reported to the police. The accused was arrested and charged.
  - d) The victim was medically examined the next day, and the following injuries were noted: ecchymosis of the left lower eye, swelling of the left jaw, bruising on the left lower lip, abrasions on the right thigh and right knee, abrasion on the right leg, abrasion on the left knee, and bruises on both arms.
3. After considering the summary of facts read by the state counsel, which were admitted by the accused, this court was satisfied that the accused had entered an unequivocal plea of guilty on his freewill.
4. This court was also satisfied that the accused fully understood the nature of the charge and the consequences of pleading guilty. The summary of facts admitted satisfied all the elements of the offence of Assault Causing Actual Bodily Harm.
5. In view of the above, this court found the accused guilty and convicted him for one count of Assault Causing Actual Bodily Harm as charged. Despite the matter having been adjourned on two occasions and this court's direction for the State to file sentencing submissions, the state counsel failed and /or neglected to comply and did not file any such submissions.
6. The learned counsel for the accused presented the following mitigation and personal details:
- a) The accused is 20 years old;
  - b) First offender;
  - c) Was employed as a Housekeeper at another Resort;
  - d) Young offender;

- e) Promises not to reoffend and is willing to reform;
- f) Seeks forgiveness from the complainant and the court;
- g) Pleaded guilty at the first available opportunity;
- h) Is genuinely remorseful of what he had done;
- i) Co-operated with police;
- j) Seeks leniency from the court;
- k) Sole Breadwinner of the family;
- l) Looks after his sickly parents.

### **TARIFF**

7. The maximum penalty for the offence of Assault Causing Actual Bodily Harm is 5 years imprisonment. The accepted tariff is from an absolute or conditional discharge to 12 months imprisonment depending on the extent of the injuries caused excluding domestic violence cases. In *State v. Salote Tugalala* [2008] FJHC 78; HAC 025/2008S (29 April, 2008) Shameem J. (as she was) at paragraph 3 of the sentence, made the following observations:

*The tariff for this offence appears to range from an absolute or conditional discharge to 12 months imprisonment. The High Court said in Elizabeth Joseph v. The State [2004] HAA 030/04S and State v. Tevita Alafi [2004] HAA073/04S, that it is the extent of the injury which determines sentence. The use of a pen knife for instance, justifies a higher starting point. Where there has been a deliberate assault, causing hospitalization and with no reconciliation, a discharge is not appropriate. In domestic violence cases, sentences of 18 months imprisonment have been upheld (Amasai Korovata v. The State [2006] HAA 115/06S.*

## **AGGRAVATING FACTORS**

8. The following aggravating factors are obvious in this case:

a) Breach of Privacy

The accused unlawfully and stealthily entered the victim's room while she was asleep, thereby grossly violating her privacy.

b) Accused was undeterred

The accused was bold and undeterred in his actions. He entered the victim's room and remained there until she woke up demonstrating a disregard for her personal safety.

c) Prevalence of the offence

This type of offence has become increasingly prevalent. Incidents involving the unlawful entry into another person's room while the occupant is asleep are deeply concerning and entirely unacceptable.

d) Safety in the room

The victim was a foreign national who was supposed to feel safe and secure at her chosen accommodation. However, this expectation was shattered by the actions of the accused.

9. Considering the objective seriousness of the offence committed, I select 3 months imprisonment (lower range of the tariff) as the starting point of the sentence. An additional 18 months is imposed for the aggravating factors, resulting in an interim sentence of 21 months imprisonment. In light of

the early guilty plea, the accused's good character and other mitigating factors, the sentence is reduced by 14 months. The sentence is now 7 months imprisonment.

10. As per the court file the accused was remanded for 28 days. In accordance with section 24 of the Sentencing and Penalties Act and in exercise of my discretion the sentence is further reduced by 1 month as a period of imprisonment already served.
11. The final sentence is 6 months imprisonment. Under Section 26 (2) (a) of the Sentencing and Penalties Act this court has a discretion to suspend the final sentence since it does not exceed 3 years imprisonment.
12. In *State vs. Alipate Sorovanalagi and others*, Revisional Case No. HAR 006 of 2012 (31 May 2012), Goundar J. reiterated the following guidelines in respect of suspension of a sentence at paragraph 23:

*"[23] In DPP v Jolame Pita (1974) 20 FLR 5, Grant Actg. CJ (as he then was) held that in order to justify the imposition of a suspended sentence, there must be factors rendering immediate imprisonment inappropriate. In that case, Grant Actg. CJ was concerned about the number of instances where suspended sentences were imposed by the Magistrates' Court and those sentences could have been perceived by the public as 'having got away with it'. Because of those concerns, Grant Actg. CJ laid down guidelines for imposing suspended sentence at p.7:*

*"Once a court has reached the decision that a sentence of imprisonment is warranted there must be special circumstances to justify a suspension, such as an offender of comparatively good character who is not considered suitable for, or in need of probation; and who commits a relatively isolated offence of a moderately serious nature, but not involving violence. Or there may be other*

*cogent reasons such as the extreme youth or age of the offender, or the circumstances of the offence as, for example, the misappropriation of a modest sum not involving a breach of trust, or the commission of some other isolated offence of dishonesty particularly where the offender has not undergone a previous sentence of imprisonment in the relevant past. These examples are not to be taken as either inclusive or exclusive, as sentence depends in each case on the particular circumstances of the offence and the offender, but they are intended to illustrate that, to justify the suspension of a sentence of imprisonment, there must be factors rendering immediate imprisonment inappropriate."*

13. The following relevant special circumstances or special reasons for suspending the term of imprisonment, in my view, must be weighed when determining whether to impose an immediate imprisonment or a suspended sentence.
14. The accused is a young offender (20 years at the time), is of good character, isolated offence was committed by him. He pleaded guilty at the earliest opportunity, has demonstrated genuine remorse, cooperated with police, did not use any weapon, and has taken full responsibility for his actions. It is further noted that, of his own accord, the accused has undertaken a rehabilitation program with Omega Christian Fellowship, which is a positive factor in his favour. These special circumstances render immediate imprisonment inappropriate.
15. The accused has spent 28 days in remand, which in itself constitutes an adequate and appropriate form of punishment. This experience serves as a significant deterrent and a reminder to avoid future offending. The court has taken into account the rehabilitation of the accused as a primary factor over retribution in determining the appropriate sentence.

16. Having considered section 4 (1) of the Sentencing and Penalties Act, the court is of the view that a suspended sentence is just and appropriate in all the circumstances of this case.
17. In summary, the accused is sentenced to 6 months imprisonment, which is suspended for a period of 2 years. The accused is explained the meaning and implications of a suspended sentence.



**Sunil Sharma**  
Judge



**At Lautoka**

11 November, 2025

**Solicitors**

**Office of the Director of Public Prosecutions for the State.**

**Office of the Legal Aid Commission for the Accused.**