

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

Criminal Case No. HAC 280 of 2025

**STATE**

-v-

**RATU ESAVA VAKACEREIVALU**

**Prosecution**                    Ms. Kantharia, Bhavna for the State  
**Accused:**                        Ms. Dean, Andala of Legal Aid Commission for the Accused

**Date of Hearing:**                20<sup>th</sup> February, 2026  
**Date of Sentence:**              27<sup>th</sup> February, 2026

**SENTENCE**

[1] The Director of Public Prosecutions filed the Information on 6<sup>th</sup> November, 2025. On 3<sup>rd</sup> February, 2026 the accused pleaded guilty on his own accord to the following offence;

**First Count**

**Statement of Offence**

**Acts Intended to Cause Grievous Harm:** Contrary to section 255(a) of the Crimes Act, 2009.

**Particulars of Offence**

**Ratu Esava Vakacereivalu** on the 4<sup>th</sup> day of October, 2025 at Nasinu in the Central Division with intent to cause some grievous harm to **Pita Luvu Sukanaivalu**, unlawfully wounded the said **Pita Luvu Sukanaivalu** by punching him several times on the face and mouth.

[2] The incident occurred on 4 October, 2025 at about 4,00am at River Road, Narere, Nasinu. The complainant was returning from town when he met Ratu Esava Vakacereivalu, the accused and another I-Taukei young man who were walking ahead of him. The two then requested from the complainant if they could join him in drinking liquor. Complainant opened his bag and gave the accused one can of Woodstock. The accused then requested from the complainant if they could drink the remaining drinks in his bag at a chosen area.

- [3]. Upon arrival at the chosen area, the accused aggressively pulled the complainant's shirt and started throwing punches at the latter's face. As the complainant attempted to escape, the accused pulled him again and continued throwing punches on his mouth.
- [4]. On the complainant's second attempt to escape, he managed to do so by entering into a Hindu Family's house. This family assisted him by calling the Police.
- [5]. The matter was reported to the Nasinu Police Station and accused was apprehended and escorted to the station for investigation.
- [6]. Complainant was medically examined at the Nausori Health Centre by Doctor Sharini Devi Chandra. The doctor noted her Specific Findings in paragraph D (12) of the Medical Report as follows;
- (a). Bruise noted on right eye.
  - (b). Subconjunctival haemorrhage noted in the right eye.
  - (c). Tenderness noted on palpitation on chin and swollen mouth opening. Two finger breath.
  - (d). Healed abrasion noted on right forearm. Infected abrasion on both knees.
- [7]. In paragraph D (14) the doctor wrote "brunt force trauma".
- [8]. The accused in his interview statement admitted to the allegations against him. His version was that after drinking four cans of Wild Bull, he and another walked to Johnsons Investment to buy more liquor when he realised that he had forgotten his wallet at home.
- [9]. On their way back home, they heard someone calling them to join him as he was drinking alone at Omkar Road. They accepted the invitation and joined the complainant. His cousin who had accompanied him later left.
- [10]. Then the complainant and him started walking along Omkar Road to Johnson Investment and whilst walking, complainant was giving him the can of Goldstone to drink. He cannot recall as to how long they were walking and how much alcohol the complainant had offered him to drink as he became unconscious.
- [11]. When he regained consciousness, he was lying on the ground at River Road, Narere. When he stood up, the complainant continued to offer him more drinks which he did not consume but instead used his right fist and punched the complainant's face.
- [12]. The complainant tried to escape but he managed to pull him and punch his jawline. Later the complainant managed to enter a compound but he followed him and continued with his assault. The Police arrived and he stopped.
- [13]. He admitted that the complainant sustained multiple injuries to his jaw.

- [14]. The Accused was 18 years old at the time of the offending. He is a first offender. He pleaded guilty on the first available instance thus saving the Court's time and resources. By doing so he has also saved the complainant from testifying in court and re-living the horrific attack.
- [15]. The court was not provided with the reason behind the attack. However, upon reading the Caution Interview statement of the accused tendered in court, I note that in answers to questions 51, 52 and 59 the accused alleged that the complainant had raped him, perhaps when he was unconscious.
- [16] This offence of Acts intended to cause grievous harm is serious. The violence was fuelled by alcohol and the accused allegation of being raped by the complainant.
- [17]. The maximum penalty for act with intent to cause grievous harm is life imprisonment. The tariff range from 6 months to 5 years imprisonment depending on the nature of the weapon used and the seriousness of the injuries sustained by the victim. (**State v Mokubula** [2003] FJHC 164; HAA0052J.2003S (23 December 2003)).
- [18]. In mitigation, the Learned Defence counsel submitted that the accused is now 19 years old and a second year vocational student at Nasinu Secondary School. He is remorseful for his actions and promises not to re-offend.
- [19]. Additionally, the accused beseeched the court for a non-conviction stating that if a conviction is entered against his name, he might not be able to secure better employment opportunities in the future.
- [20]. The court also note that the accused was remanded in custody for a period of one month and one week.

### **Conviction or Non-Conviction**

- [21]. **Section 16 (1)** of the Sentencing and Penalties Act, 2009 stipulates that a sentencing court shall have regard to all the circumstances of the case when exercising discretion whether or not to record a conviction, but nevertheless, the circumstances so considered shall necessarily include the three factors listed in that section. The said section reads as follows;

- 16. (1)** *In exercising its discretion whether or not to record a conviction, a court shall have regard to all the circumstances of the case, including –*
- (a) *the nature of the offence;*
  - (b) *the character and past history of the offender; and*
  - (c) *the impact of a conviction on the offender's economic or social well-being and on his or her employment prospects.*

[22]. The nature of the offence is serious indeed. However, the circumstances of the offending was not disclosed to the court until I read the accused's caution interview statement and found out his reasons for assaulting the complainant. The accused alleged that the complainant had raped him thus his adverse actions against accused.

[23]. The accused is a first offender. He has maintained a good behaviour for eighteen years.

[24]. If the court convicts the accused it will surely affect his future employment prospects.


### **Order**

[25]. Based on the foregoing reasons, the court invokes **section 16** of the **Sentencing and Penalties Act, 2009** and discharge the accused without recoding a conviction.

### **Appeal Period**

[26]. Thirty (30) days to appeal to the Court of Appeal.



  
Waleen M George  
Acting Puisne Judge

Dated at Suva this 27<sup>th</sup> day of February, 2026.

**Solicitors: Office of the Director of Public Prosecution for the State  
Legal Aid Commission for the Accused**