

**IN THE MAGISTRATE'S COURT AT SUVA**

**CRIMINAL DIVISION**

**Criminal Case No. 1094/11**

**The State –v- Ravneel Ravikash Lal**

**For the State: Ms Koto/Mr. Nath**

**For the Accused: Mr. R. Singh**

**SENTENCE**

Ravneel Ravikash Lal you have been convicted as charged of the following two counts: -

- Abduction of Person under 18 years of age with Intent to have carnal knowledge contrary to section 211 of the Crimes Decree
- Defilement of a young person between 13 and 16 years of age contrary to section 215 of the Crimes Decree.

Initially during the trial you admitted to the Abduction charge and the matter proceeded to trial only with respect to the second count of Defilement. You were convicted after a full trial in which you relied on the statutory defence that you were mistaken as to the victim's age. You were not able to establish this statutory defence on the balance of probabilities therefore you now stand convicted as charged.

Counsel has offered the plea in mitigation on your behalf. You are 23 years of age and reside at Lot 21 Kings Road, Centrepoint. You are currently employed with Classic Paints earning \$120 a week.

You have no previous convictions and it is submitted that you have suffered social and public humiliation as a result of your actions. You are the sole breadwinner in the family and any custodial sentence will have disproportionate consequences on them. You are truly remorseful and you realise that you have committed a serious offence. You submit that you were involved in a relationship with the victim and in the circumstances you seek a suspended sentence.

The State has filed sentencing submissions and contends that the following factors aggravate this offence: -

- (a) The age of the victim
- (b) The age gap of 6 years and your breach of trust in committing this offence with your underage girlfriend.
- (c) Your insistence in keeping the victim back with you when you were aware that she wanted to go home.

The State submits that the following factors mitigate this offence: -

- (a) Your prior relationship with the victim
- (b) Your previous good conduct as a first offender

In the sentencing recommendations for the first count of Abduction, the State submits that the maximum sentence for this offence is 5 years imprisonment and the tariff for this offence ranges from 12 months to 24 months.

The maximum sentence for the offence of Abduction is 10 years imprisonment and the accepted tariff ranges from a suspended sentence to 4 years imprisonment. Suspended sentences are reserved for offending that occurs within a virtuous relationship.

The offence of Defilement attracts a maximum sentence of 10 years imprisonment with a tariff ranging from a suspended sentence to 4 years imprisonment. A suspended sentence would be reserved for a virtuous relationship.

The State recommends a sentence of imprisonment with a starting point of 3 years. The State concedes that your relationship falls into the category of a virtuous relationship however a suspended sentence is not appropriate in the circumstances of this case.

The offences which you are now convicted of were committed as part of one transaction therefore you will receive a concurrent sentence for both. From the facts that have been produced in Court this offence falls into the lower end of these types of offences.

In sentencing you the Court notes your admissions in Court and your cooperation with the police during the investigations. This is an indication of remorse and the Court finds that this is in your

favour. It is also clear from the record of your interview that you considered the victim as your girlfriend and she also considered you as her boyfriend.

Despite this you persisted in the offence, defiling the victim on this one occasion. You took advantage of a naïve and inexperienced young girl and this aggravates this offence.

The mitigating factors are your cooperation with the police and your previous good conduct.

In sentencing you for the first count of Abduction I take a starting point of 12 months imprisonment and I add 6 months for the aggravating factors. I reduce your sentence by 6 months for your previous good conduct leaving you with a sentence of 12 months for the first count of Abduction.

In sentencing you for the second count of Defilement, the Court takes a starting point of 2 years imprisonment and adds 1 year for the aggravating factors outlined above. The sentence is reduced by one year for your previous good conduct as a first offender.

Ravneel Ravikash Lal your sentence for the second count of Defilement is 2 years imprisonment to be served concurrently with the first count of Abduction.

This leaves you with a total sentence of 2 years, a sentence which may be suspended in the appropriate circumstances pursuant to section 26 of the Sentencing and Penalties Decree.

The circumstances in this case are that you are a first offender with a previously unblemished record. The victim was born on the 20<sup>th</sup> of November 1995 and was no longer attending school at the time in question. You were involved with her at the time in a relationship and you considered her as your girlfriend. You are related to the victim and your offending would no doubt affect relations within your respective families.

In the circumstances of this particular offending a fully suspended sentence will send out the wrong message that such acts are condoned by the Courts. There must be consequences for wrongful behaviour while at the same time you must be given an opportunity to rehabilitate yourself.

After due consideration of the circumstances of this offence as well as your personal circumstances the Court finds that the most appropriate sentence for you is a partially suspended sentence.

**Ravneel Ravikash Lal this is your sentence: -**

1. For the first count of Abduction of Person under 18 years of age with Intent to have carnal knowledge contrary to section 211 of the Crimes Decree – **I sentence you to 12 months imprisonment.**
2. For the second count of Defilement of a young person between 13 and 16 years of age contrary to section 215 of the Crimes Decree – **I sentence you to 2 years imprisonment – to be served concurrently with the first count.**

Ravneel Ravikash Lal of your total 2 year sentence, you will serve one month in custody and the balance of 23 months will be suspended for 2 years.

The suspended sentence will be explained to you and you have 28 days to appeal.

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**U. Ratuveli**

**Chief Magistrate**

**26<sup>th</sup> March 2013**