

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CRIMINAL JURISDICTION

CRIMINAL CASE NO: HAC 142 OF 2011

BETWEEN : **STATE**

AND : **ROHIT RANJIT KUMAR**

Counsel : **Ms S. Babitu for the State**
Mr. Iqbal Khan for the Accused

Date of Sentence : **27th March 2013**

SENTENCE

- [1] Name and identity of the virtual Complainant is suppressed on the request of the State Counsel.
- [2] The Accused above named is a Pastor and he is charged with one count of rape a teenage girl, punishable under section 207(1) of the Crimes Decree.
- [3] After the trial, all 3 assessors unanimously found the Accused guilty to the charge of rape.

[4] The Accused is a Pastor of Aashish Prathna Bhawan. The victim who is 17 years old was a member of this church. The Accused had given a mobile phone to her for her birthday in February 2011. One day in March 2011 the Accused had gone to her place and raped her when she was alone. Subsequently she was blamed by the members of the church for texting and calling on the mobile as a result she attempted to commit suicide by drinking engine degreaser and she was hospitalized. After her discharge, she reported the rape incident to the police.

Law:

[5] *207. — (1) Any person who rapes another person commits an indictable offence.*

Penalty — Imprisonment for life.

[6] Fiji is a signatory to the United Nations Child Rights Charter, article 3(1) of the said Charter states as follows:

Article 3(1)

*“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the **best interests of the child shall be a primary consideration.**” [emphasis added]*

Tariff:

[7] Tariff for the offence of child rape is discussed in many cases it ranges from 10 years to 16 years.

[8] The Accused being in a trusted position as senior pastor had raped a girl of 17 years who is one of his church member. This causes serious alarm among the true religious followers. Considering this fact I commence your sentence at 15 years imprisonment.

[9] Aggravating factors

- a) The victim is a child of 17 years and unmarried;
- b) You are 42 years, married with 3 children, your elder daughter is older than the victim;
- c) According to the victim impact report (VIR) the victim was traumatized by the act of the Accused and the allegations made by the members of the church;
- d) The incident together with other things led her to attempt to commit suicide;
- e) After all these things happened when the victim is giving evidence she never referred you in any other words other than Pastor Rohit;
- f) She comes from poor and religious background. You made use of her religious belief and molested her;
- g) Gross breach of trust as a senior pastor.

Considering all I increase your sentence by 5 years now your sentence is 20 years imprisonment.

[10] Mitigating circumstances

- a) You are a first offender;
- b) You are the sole bread winner of your family;

- c) Your counsel claims that you have done heroic deed during cyclones;
- d) You have filed many character certificates saying you are a good pastor and helpful to people.

Considering all I reduce your sentence by 4 years, now your sentence is 16 years imprisonment.

- [11] Among many letters you submitted in support of your mitigation, two letters received my attention, one is from Agnes Archana Prasad and the other one is by Subhashni Lata. Both are absolutely defaming the Complainant none of these things were questioned or suggested to the victim when she gave evidence. I find those two letters as attack on a defenseless victim. I gave no weight to those letters.
- [12] Your counsel relying on a sentence I passed on **State v Chen Wen Jian** (2013) FJHC 2. Facts of that case is completely different to this case especially the relationship and the bond.
- [13] Whatever the modern developments come in the 21st century, people especially most of the people of Fiji faithfully follow their religion. Some of the clergyman like you abuse their position and molest women and children who sincerely believes the faith, may result, these faithful people to loose their faith which in my view is not good for the society and the country at large. I act under Section 18(1) of the Sentencing & Penalties Decree and impose 15 years as non parole period.
- [14] You are sentenced to 16 years and you will not be eligible for parole until you complete serving 15 years in prison.

[15] You have 30 days to appeal to the Court of Appeal.

S. Thurairaja

Judge

At Lautoka

27 March 2013

Solicitors: The Office of the Director of Public Prosecution for the State

Iqbal Khan & Associates for the Accused