

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

**Criminal Case No. HAC 399 of 2012**

**BETWEEN**

**STATE**

**AND**

**WASEROMA KOROI**

**BEFORE THE HON. JUSTICE PAUL K. MADIGAN**

**Counsel:** Ms. A. Vavadakua with Ms. W. Elo for the State  
Mr. J. Savou with Mr A. Chand (L.A.C.) for the accused

**Dates of hearing:** 17, 18 March 2014

**Date of sentence:** 20 March 2014

---

**SENTENCE**

---

- [1] The accused has been convicted by this Court following trial of one count of incest against his daughter in October or November 2011.
- [2] The facts established at trial are that the victim is a 29 year old and his second eldest daughter. She has been suffering all her life from a mental handicap and although she was able to give relevant evidence it was quite obvious that she was in a state of stress about the event and she was clearly muddled about normal matters such as her residence over the years and whether she had one or two babies.

- [3] The maximum penalty for incest under the Crimes Decree, which this is, is 20 years. The tariff established by recent cases is shown to be between 9 and 15 years. (Anare Tubailagi HC 128/2011, Camaira HC 322/11 and Turogo HC 40/12 Lbsa)
- [4] The accused is a father of four, including the victim in this case and is 59 years old working as a security officer at a supermarket in Nabua. His wife and mother of the children left him 15 years ago and he has since raised the four children himself. He has been living in a village with the children in Naitasiri where he farmed a plantation which returned him about \$300 a week. I am told he was a pastor with a village church and on leaving the village he held a community post in a neighbourhood watch cell. He has a clear record.
- [5] A victim impact report filed by the State reveals that the victim feels distressed and socially inadequate and has as a result of this incident had to move from the family home.
- [6] Incest is an offence of domestic violence and as such I must have regard to s.4(3) of the Sentencing and Penalties Decree. By s.4(3)(a)(iii) of that Decree stipulates that I must have regard to the mental disability of the victim and by s.4(3)(c) and (d) I have regard to her emotional wellbeing and dislocation respectively.
- [7] Counsel for the accused tells me that he still does not accept responsibility for the offence and protesting the conviction will not take steps to address his behavior or to mitigate the likelihood of threat to the victim in terms of section 4(3)(f) of the Decree. Obviously he shows no remorse.
- [8] I issue a Domestic Violence Restraining Order against the accused as perpetrator and in favor of the victim. This order will remain in effect until further order.
- [9] Incest is a crime against the order of nature and an attack on the fabric of the nuclear family. In this case the crime is aggravated by a large degree in that the victim daughter was and still is mentally and emotionally handicapped and

aggravated by the fact that she has had to move away from the family house and her siblings.

- [10] I take a starting point for this crime a term of 10 years imprisonment. For the breach of trust that is inherent in the crime and by that breach the destruction of the family relationship I add a further two years. For the taking advantage of a handicapped victim who it was thought would not lay any complaint I add a further two years to the term. In recognition of the accused's clear record I deduct one year.
- [11] The accused will serve a total of thirteen years' imprisonment. He will serve a minimum of eleven years before he is eligible for parole.

**P.K. Madigan**  
**Judge**

At Suva

20 March 2014