

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

**Criminal Case No: HAC 46 of 2013**

**BETWEEN:**

**THE STATE**

**AND:**

**PITA VETAUKULA**

**Counsel:** Mr. M. Maitava for State  
Ms. M. Tarai for Accused

**Date of Hearing:** 4 July 2014

**Date of Sentence:** 8 July 2014

**SENTENCE**

- [1] Pita Vetaukula, you appear before this Court for sentence, after you pleaded guilty to a charge of defilement, contrary to section 215 (1) of the Crimes Decree.
- [2] The facts are that in 2013 you were appointed the turaga-ni-koro (the headman) of Navidamu Village, Seaqaqa at a very young age. As part of your responsibilities, you kept a record of names and dates of birth of each occupant in the village. The complainant was one of the occupants of the village. She was 15 years old and a Form 5 student at Seaqaqa College. Between 19 May and 25 May 2013, you had consensual sexual intercourse with the complainant. When the complainant's mother found out about the sexual relationship, she reported the matter to the police because the complainant was under 16 years of age. You were arrested and interviewed under caution. You admitted having consensual sexual intercourse with the complainant. You were charged and presented in the Magistrates' Court. You remained in custody on remand for two days before you were released on bail.

- [3] The trial was scheduled to commence on 4 July 2014. You advised the Court through your counsel that you wished to change your plea to guilty. When plea was taken you pleaded guilty. Although your plea is late, you deserve some credit for saving the court time and the complainant from giving evidence. Your counsel has made a plea for leniency in sentence for your crime.
- [4] You are 23 years old. At the time you committed the offence you were 22 years old. Currently, you are a student at Fiji National University. You are studying to become a plumber. You are also a volunteer at the Christian Mission Fellowship Church. Because of your bail conditions, you were not able to apologise to the complainant's mother. But when an opportunity was given in Court, you apologised to the complainant's mother and expressed remorse. The complainant's mother refused to accept your apology because as her turaga-ni-koro you beached her trust. You come from an ordinary background. Your parents are farmers. You are a first time offender.
- [5] The maximum penalty for defilement is 10 years imprisonment. The tariff is between suspended sentences to 4 years imprisonment (*Elia Donumainasava v State* [2001] HAA 32/01S, 18 May 2001). Suspended sentences are appropriate in cases of non-exploitative relationship between persons of similar age. Custodial sentences are appropriate in cases of sexual exploitation of younger girls by old men or men who hold positions of authority over the girls.
- [6] The aggravating factor in this case is that you were in a position of authority over the complainant as the turaga-ni-koro of the village. The mitigating factors are your guilty plea, remorse, young age, personal circumstances and previous good character.
- [7] On an objective seriousness of the offence, I pick 2 years as my starting point. I increase the sentence to 3 years to reflect the aggravating factor and reduce the sentence to 18 months imprisonment to reflect the mitigating factors.
- [8] I now consider whether your sentence should be suspended. When the sexual act occurred, the age gap between you and the complainant was 6 years. The age gap between you and the complainant, and your authority as the turaga-ni-koro gave rise

to an exploitative environment for the offence to take place. The position of turaga-ni-koro is an integral part of the communal living in Fiji. The person who holds such a position in a village is responsible for the daily administration of the village. The position is a powerful one because as the headman the turaga-ni-koro can always assert pressure on the occupants of the village to comply with his directives. At times, the occupants may feel obliged to comply with the turaga-ni-koro's directives because of fear of repercussion that may arise if his directives are ignored. These factors can create an exploitative environment for women and girls.

[9] Younger girls who have entered puberty and who are experiencing social and hormonal changes are more vulnerable to sexual advances by men with authority over them. The courts have a duty to protect the young girls from any form of sexual exploitation. In cases of sexual exploitation of young girls, the primary purpose of the sentence is general deterrence. Rehabilitation of the offender is a secondary purpose. For these reasons, I am not convinced that a suspended sentence will deter others who hold similar position of authority from sexually exploiting younger girls. Your sentence will not be suspended.

[10] Your sentence is 18 months' imprisonment effective from today.



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Daniel Goundar

**JUDGE**



At Labasa  
8 July 2014

**Solicitors:**

Office of the Director of Public Prosecutions for State  
Office of the Director of Legal Aid Commission for Accused