

IN THE HIGH COURT OF FIJI

AT LABASA

CRIMINAL JURISDICTION

CRIMINAL CASE NO: HAC 011 OF 2014LAB

STATE

V

URAI CAUCAU

Counsels : Ms. W. Elo for State
Ms. S. Dunn for Accused

Hearings : 15 and 16 February, 2016

Summing Up : 17 February, 2016

Judgment : 17 February, 2016

Sentence : 18 February, 2016

SENTENCE

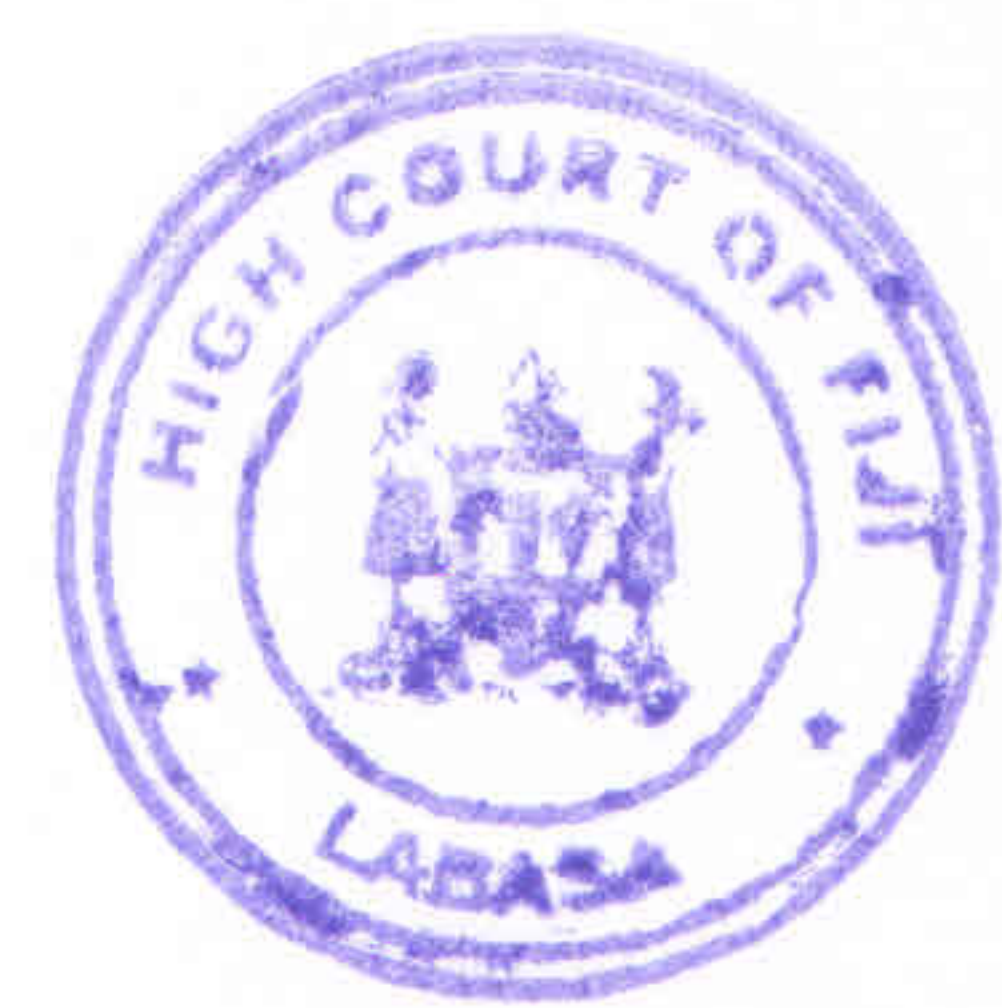
1. In a judgment delivered yesterday, the three assessors and the court found you guilty of raping the complainant on 20 December 2013, at Cakaudrove in the Northern Division, contrary to section 207 (1) and (2) (a) of the Crimes Decree 2009. The court later convicted you as charged.

2. The facts were briefly as follows. The complainant was 26 years old, with three children and she and her children lived in a house in Cakaudrove. She was a solo mum. You entered her house on 20 December 2013, forced yourself on her, and raped her. The matter was reported to police. You were charged with "rape" and later convicted of the same, after 3 days High Court trial.
3. For sexual offences, "rape" is at the top of the criminal calendar. It carried a maximum sentence of life imprisonment. Previous case laws had established a tariff between 7 to 16 years imprisonment for the rape of an adult. The actual sentence will depend on the mitigating and aggravating factors.
4. The aggravating factors were as follows:
 - (i) Exploitation of the Vulnerable. You knew that the complainant was a solo mum and lived alone with her young children. On the pretext of taking her some cassava, you walked into her house, forcefully took off her clothes and raped her;
 - (ii) By offending against the complainant, you showed no regard whatsoever to her dignity and her right to enjoy a peaceful existence and her human rights;
 - (iii) Despite your right to defend yourself in a court of law, you showed no remorse during the proceeding.
5. The mitigating factors were as follows:
 - (i) At the age of 21 years, this is your first offence;
 - (ii) You were remanded in custody from 24 December 2013 to 2 May 2014, a period of 4 months 9 days.
6. I start with 7 years imprisonment. For the aggravating factors, I add 3 years, making a total of 10 years imprisonment. For time already served while remanded in custody, I deduct 5 months, leaving a balance of 9 years 7 months. For being a first offender, I deduct 1 year 7 months, leaving a balance of 8 years imprisonment. I sentence you to 8 years imprisonment.
7. Mr. Uraia Caucau, for raping the complainant on 20 December 2013 at Cakaudrove in the Northern Division, I sentence you to 8 years imprisonment, with a non-parole period of 6 years, effective forthwith.

8. The name of the female complainant is permanently suppressed to protect her privacy.



Salesi Temo
JUDGE



Solicitor for the State : **Office of the Director of Public Prosecution, Labasa**
Solicitor for the Accused : **Office of the Legal Aid Commission, Labasa**