

IN THE HIGH COURT OF FIJI

AT LAUTOKA

CRIMINAL JURISDICTION

CRIMINAL CASE NO.: HAC 83 OF 2015

STATE

v

WILLIAM PETERS

Counsel

Mr. S. Seruvatu for State

Ms K.Vulimainadave/T.Varinava for Accused

Date of Judgment : 11 October 2018

Date of Sentence : 25 October 2018

(Name of the victim is suppressed. She is referred to as SM)

SENTENCE

1. Mr. William Peters, you stand convicted of two counts of Rape after a full defended trial. The information on which you were convicted reads as follows:

FIRST COUNT

Statement of Offence

RAPE: Contrary to Section 207 (1) and (2) (a) (3) of the Crimes Decree No. 44 of 2009.

Particulars of Offence

WILLIAM PETERS on the 29th day of April, 2015, at Nadi in the Western Division, had carnal knowledge of **SM**, a child under the age of 13 years.

SECOND COUNT

Statement of Offence

RAPE: Contrary to Section 207 (1) and (2) (c) (3) of the Crimes Decree No. 44 of 2009.

Particulars of Offence

WILLIAM PETERS on the 29th day of April, 2015, at Nadi in the Western Division, penetrated the mouth of **SM** with his penis, a child under the age of 13 years.

2. Having been convicted, you now come before this Court for sentence.
3. You were a 19 year-old young person when these offences were committed on your step-cousin who was only 4 years old at that time. You are now 23 years old.
4. You were staying at victim's house when the incident happened. When victim's mother was washing clothes, the victim went to the toilet. You pushed opened the door and entered the toilet. You then carried her and put your penis in her mouth. Then you lifted her up and bent her over and

inserted your penis inside her vagina. When she tried to shout, you blocked her mouth. You slapped her and informed her not to inform the incident to anybody. The victim complained to her mother a few days after the incident. The matter was reported to police and the victim was medically examined. The doctor who examined the victim found her hymen not intact and the area around inner wall of the vagina red.

5. The maximum penalty for Rape is life imprisonment.
6. Tariff for juvenile rape is 10-16 years' imprisonment. (Anand Abhay Raj CAV003.2014).
7. Rape is the most serious sexual offence. Life imprisonment is the prescribed punishment for Rape. The law makers expect the courts to impose harsher punishment on rape offenders because they believe that by imposing harsher punishments on such offenders this heinous crime could be controlled. Rape of children is most prevalent in Fiji and is on increase threatening the very fabric our society, endangering the security and wellbeing of our younger generation. Courts and the society cannot condone any form of sexual assault on children. Not only the offender himself but the potential offenders must also be deterred. The sentence must send a clear warning to the society.
8. The main purposes of your sentence are deterrence and denunciation. However, I am mindful of your youth and chances of rehabilitation.
9. You used force on a child of tender age. The offending is very serious. Having considered the seriousness of the offence and the harm caused to the young victim, I pick 11 years' imprisonment as the starting point. In selecting the starting point I also considered the prevalence in Fiji of a large number of sexual offences committed against children.

10. **Aggravating Circumstances**

- The victim is your step-cousin. You breached her trust.
- Complainant was 4 years of age when the offence was committed. You were a 19-year old mature person at that time. The age gap between you and the victim is 15 years.
- The victim suffered pain and injuries. According to the Victim Impact Statement, the victim has suffered emotionally and psychologically.

11. **Mitigating Circumstances**

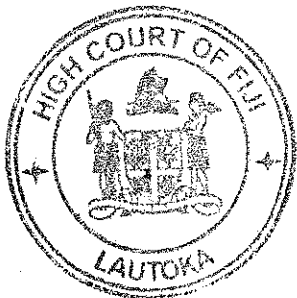
- You are a first offender and have maintained a clear record thus far.
- You seek leniency of this court and a chance to rehabilitate.
- You cooperated with police.

12. You have not saved the young victim from giving evidence and reliving the ordeal. Therefore you will not get any discount in view of your lack of remorse.

13. You are a 23 year-old first and young offender. You are a student of Technical College of Fiji from 2016 pursuing a Certificate of Cookery. You live with your uncle, looking after his family. It is unfortunate that you have committed this offence in your youth ruining the rest of your life. I have considered your personal circumstances and youth in mitigating your sentence.

14. I add 1 year to the starting point for above mentioned aggravating factors bringing the interim sentence to one of 12 years' imprisonment. I deduct 2 years for mitigating factors and for remand period to arrive at a sentence of 10 years' imprisonment for each count of Rape.

15. Your final sentence is 10 years imprisonment for each count to be served concurrently.
16. You are a first offender. I considered your personal circumstances and chances of rehabilitation as a first and young offender. In view of the foregoing, I, acting under Section 18(1) of the Sentencing and Penalties Act, order that you are eligible for parole after serving an imprisonment term of 7 years.
17. **Summary**
You are sentenced to 10 years' imprisonment to be served concurrently with a non-parole period of 7 years.
18. 30 days to appeal to the Fiji Court of Appeal.



At Lautoka

25 October, 2018

Aruna Aluthge

Judge

Counsel:

- Office of the Director of Public Prosecution for State
- Legal Aid Commission for Accused