

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 202 OF 2016S

STATE

Vs

GOVIND SAMI RAJU

Counsels : Ms. K. Semisi for State  
Ms. S. Vaniqi for Accused

Hearings : 29, 30, 31 May, 1 and 4 June 2018

Summing Up : 5 June, 2018

Judgment : 6 June, 2018

Sentence : 7 June, 2018

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## SENTENCE

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1. In a judgment delivered yesterday, the court found you guilty and convicted you on the following count:

FIRST COUNT

*Statement of Offence*

RAPE: *Contrary to Section 207(1) and (2)(a) and (3) of the Crimes Act of 2009*

*Particulars of Offence*

*GOVIND SAMI RAJU between the 1<sup>st</sup> day of May 2016 and the 31<sup>st</sup> day of May 2016 at Nasinu in the Central Division had carnal knowledge of R. R. C, an 11 year old girl.*

2. The brief facts were as follows. Between the 1 and 31 May 2016, you were 85 years old, a retired driver and residing at 10 Miles Nasinu. Your wife died in 2010, and all your 6 children were grown up and married. You owned a two storey flat, and rented the top flat to the 11 year old female complainant (PW1) and her family. PW1 lived with her mother and 5 other siblings. Their father died in 2013. Next to her family's flat was your flat, where you had your bedroom. Sometime between 1 and 31 May 2016, you took PW1 into your bedroom, undressed her, put her onto your bed, and had sexual intercourse with her. You had been tried and convicted in the High Court.
3. The rape of children is always a serious matter, and Parliament had prescribed a maximum sentence of life imprisonment: section 207 (1) of the Crimes Act 2009. The Supreme Court of Fiji had set the tariff of 10 to 16 years imprisonment for the rape of children: see **Anand Abhay Raj v The State**, Criminal Appeal No. CAV 0003 of 2014. Of course the final sentence will depend on the aggravating and mitigating factors.
4. In this case, the aggravating factors were as follows:
  - (i) **Breach of Neighbourly Trust:** The 11 year complainant (PW1) treated you as her grandfather and called you "Tata". You were also their landlord. Your flat was next to the complainant's family's flat. Prior to the incident, there was good will and trust between you and the family. They felt safe around you, however unbeknown to them, you were harbouring bad intentions inside you. Sometime in May 2016, you called the 11 year complainant into your bedroom and raped her. This was obviously a serious breach of neighbourly trust.
  - (ii) **Rape of Child:** The court had said in the past and will say again that it will not tolerate the abuse of children, the future of this country. It will keep on passing long prison sentences, as warning to would-be child rapist. Despite the above, you saw fit to rape this child. You must not complain when your liberty is taken away to pay for your crime. You cunningly exploited the naivety of the child to satisfy your evil intention.
  - (iii) By offending against the complainant, you had no regards to her right as a child, no regard to her rights as a human being, and no regards to her right to live a happy and peaceful life.

5. The mitigating factors were as follows:
  - (i) At the age of 87 years old, this was your first offence.
  - (ii) You had been remanded in custody for approximately 2 months.
  
6. I start with a sentence of 10 years imprisonment. For the aggravating factors, I add 3 years, making a total of 13 years imprisonment. I deduct 3 months for time already served, while remanded in custody, leaving a balance of 12 years 9 months imprisonment. For being a first offender at the age of 87 years, I deduct 2 years 9 months, leaving a balance of 10 years imprisonment.
  
7. Mr Govind Sami Raju, for raping the 11 year old female complainant between 1 and 31 May 2016 at Nasinu in the Central Division, I sentence you to 10 years imprisonment, with a non-parole period of 7 years imprisonment, effective forthwith.
  
8. Pursuant to Section 4(1) of the Sentencing and Penalties Act 2009, the above sentence was designed to punish you in a manner which was just in all the circumstances, to protect the community from people like you, to deter other would-be child rapist and to signify that the court and the community denounce the rape and sexual abuse of children.
  
9. The name of the female complainant (PW1) is permanently suppressed to protect her privacy.
  
10. You have 30 days to appeal to the Court of Appeal.



  
**Salesi Temo**  
**JUDGE**

Solicitor for State : Office of the Director of Public Prosecution, Suva  
Solicitor for Accused : Ms. S. Vaniqi, Barrister and Solicitor, Suva