

IN THE HIGH COURT OF FIJI

AT LAUTOKA

CRIMINAL JURISDICTION

CRIMINAL CASE NO.: HAC 156 OF 2016

STATE

-v-

RAVINDRAN MANI

Counsel : **Ms. S. Naibe for State**
Ms. V. Narara with Ms. Kumar for Accused

Date of Judgment : **30 August, 2018**

Date of Sentence : **18 September 2018**

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

SENTENCE

1. Mr. Ravindran Mani, you stand convicted of one count of Sexual Assault after trial on following information.

Representative Count

Statement of Offence

SEXUAL ASSAULT: Contrary to Section 210 (1) (a) of the Crimes Decree 44 of 2009.

Particulars of Offence

RAVINDRAN MANI on the 1st of August, 2016 at Lautoka in the Western Division, unlawfully and indecently assaulted AS.

2. You are the biological father of the victim. On 1st August, 2016, when the victim was at home with her brother, you came home around 10 pm drunk. You sent your son to sleep and asked victim if you could kiss her lips. When she said 'no' you offered her your phone and forced her to kiss. Then you pulled her to your bed and started kissing while she was crying. You were kissing her lips and then you came down and started kissing her breast while her clothes were still on.
3. Then you took her to her room and undressed her and started kissing her lips again and came down and kissed her breast and vagina. While she was still crying, you made her lie down on your bed and started kissing her lips, breast and vagina. Then you made her lie down on her stomach and put your sperm on her 'bum'. You rubbed your private part on her bum. She felt weird. She didn't like it. She told him not to do it but he kept on doing it.
4. Sexual assaults on children are prevalent in Fiji and have to be eliminated. The offenders must be severely punished to denounce and deter sexual offences. A clear message has to be sent to the community that no such actions will be tolerated by courts.

5. The maximum penalty for Sexual Assault is 10 years' imprisonment. In *State v Epeli Ratabacaca Laca*, HAC 252 of 2011, Madigan J set the tariff for the offence between 2 and 8 years imprisonment, the higher tariff being reserved for serious sexual assaults.
6. Having considered the Guidelines for Sentencing in the United Kingdom, His Lordship in *Laca* (supra), divided Sexual Assault offending into three (3) categories.

Category 1 (the most serious)

Contact between the naked genitalia of the offender and naked genitalia face or mouth of the victim.

Category 2

- (i) Contact between the naked genitalia of the offender and another part of the victim's body;
- (ii) Contact with the genitalia of the victim by the offender using part of his or her body other than the genitalia, or an object;
- (iii) Contact between either the clothed genitalia of the offender and the naked genitalia of the victim; or the naked genitalia of the offender and the clothed genitalia of the victim.

Category 3

Contact between parts of the offender's body (other than the genitalia) with part of the victim's body (other than the genitalia).

7. Rubbing buttocks of a girl with naked male genitalia falls into category 2 above.

8. In selecting the starting point, the Court should have regard to the objective seriousness of the offence. I am mindful of the guideline set down in *Koroivuki v State* [2013] FJCA 15; AAU0018.2010 (5 March 2013).
9. Considering the gravity and impact on the victim, I pick a starting point of 4 years' from the middle range of the tariff for Sexual Assault.
10. **Aggravating Circumstances**
 - i. The victim is your under age biological daughter. You violated sanctity of fatherhood. Your actions demonstrated a complete disregard of the clearly defined societal, religious and traditional norms that prohibit sexual relations between family members.
 - ii. It is a serious breach of trust –you and the victim were very close. You breached that trust.
 - iii. You took advantage and exploited victim's vulnerability when her mother was away from home.
 - iv. You are 37 years old, matured person. The victim was only 12 years old. The age difference is 25 years.
 - v. You took advantage of victim's naivety and trust when you committed this offence having no regard to the long term effects that your actions might have on her.
 - vi. According to the Victim Impact Statement, victim suffered physically and psychology.
 - vii. The victim had to relocate herself after the incident. She will have to suffer for the rest of her life.

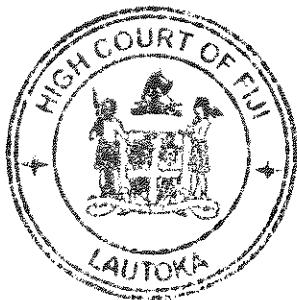
11. I increase your sentence by 3 years for aggravating circumstances to arrive at a sentence of 7 years' imprisonment.

Mitigating Circumstances

12. You are 39 years of age and a father of 2 children. You have no previous convictions. You have a diabetic condition and currently on medication. I consider you to be a first offender. You have a clear record. I reduce 1 year for mitigation.
13. You were in remand for nearly a month. I deduct further one month to arrive at a sentence of 5 years and 11 months' imprisonment.
14. Having considered the decision in *Tora v State* Crim. App. No. AAU 0063 of 2011 (27 February 2015), and the fact that you are a first offender, I fix a non-parole period of 4 years. You are eligible to parole after 4 years in prison.

Summary

15. You are sentenced to 5 years and 11 months' imprisonment with a non-parole period of 4 years.
16. 30 days to appeal to the Court of Appeal.



Aruna Aluthge

Judge

At Lautoka

18th September, 2018

**Solicitors: Office of the Director of Public Prosecution for State
Legal Aid Commission for Accused**