

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**CRIMINAL JURISDICTION**

**CRIMINAL CASE NO. HAC 325 OF 2018S**

**STATE**

**Vs**

**SOVITA TURAGABECI RAWALAI**

**Counsel** : Ms. S. Sharma for State  
Ms. L. Ratidara and Ms. L. Filipe for Accused

**Hearing** : 16, 17 and 18 March, 2020.

**Summing Up:** 20 March, 2020.

**Judgment** : 20 March, 2020.

**Sentence** : 23 March, 2020.

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**SENTENCE**

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1. In a judgment delivered on 20 March, 2020, the court found you guilty and convicted you on the following information:

***“Statement of Offence***

**RAPE: Contrary to section 207 (1) and (2) (a) of Crimes Act 2009.**

*Particulars of Offence*

*SOVITA TURAGABECI RAWALAI, on the 4<sup>th</sup> day of August 2018, at Raralevu, Vuci Road in the Eastern Division, had carnal knowledge of KD without her consent.”*

2. The brief facts were as follows. The female complainant (PW1) was 18 years old, a Year 12 student at a Nausori secondary school. She resided with her parents at Nausori. The accused was a 26 year old farmer of Nausori. The accused and the complainant were somewhat distant cousins. On 4 August 2018, the accused met the complainant at Brij Bhan shop after 1 pm. The two later went to Jovilisi's house to a drinking party. The complainant did not drink. During the party, the accused took the complainant to a corner of the house, forcefully held her neck in a strangling fashion, warned her not to shout or he will kill her, then raped her. The matter was reported to police. An investigation was carried out. The accused had been tried of rape in the High Court, and convicted accordingly.
  
3. Rape, as an offence, is very serious. It carried a maximum sentence of life imprisonment (see section 207(1) of the Crimes Act 2009). This meant that the people of Fiji, through their representatives in Parliament, view the offence of rape as a serious matter and had prescribed the maximum sentence of life imprisonment for it. Rape is a serious invasion of a person's dignity and privacy. It demeans people. It is the ultimate show of disrespect to a person. Thus, the courts had prescribed a tariff of 7 to 15 years imprisonment for the rape of an adult: see **Mohammed Kasim v The State**, Criminal Appeal No. 21 of 1993, Fiji Court of Appeal; **Bera Yalimaiwai v The State**, Criminal Appeal no. AAU 0033 of 2003, Fiji Court of Appeal and **Viliame Tamani v The State**, Criminal Appeal No. AAU 0025 of 2003, Fiji Court of Appeal. The actual sentence will depend on the mitigating and aggravating factors.

4. The aggravating factors in this case were as follows:
  - (i) **Breach of Trust.** The 18 year old female complainant was a distant cousin of yours. You two were related, therefore you should have looked after her. However, you took her to a drinking party, tried to force her to drink liquor and later forcefully raped her at a corner of the house. You cunningly exploited her naivety to offend against her. You will have to be given a custodial sentence as a warning to others.
  - (ii) **Use of extreme violence.** You forcefully held the complainant's neck with your right hand in a strangling manner; then threatened to kill her if she raised the alarm, then raped her. Such extreme violence was uncalled for.
  
5. The mitigating factors were as follows:
  - (iii) At the age of 28 years old, this is your first offence;
  - (iv) You had been remanded in custody awaiting trial for approximately 1 year.
  
6. I start with a sentence of 11 years imprisonment. I add 2 years for the aggravating factors, making a total of 13 years imprisonment. I deduct 1 year for time already served, while remanded in custody, leaving a balance of 12 years imprisonment. For being a first offender, I deduct 2 years, leaving a balance of 10 years imprisonment.
  
7. Mr. Sovita Turagabeci Rawalai, for raping the 18 year old complainant on 4 August 2018, at Vuci Road Nausori in the Eastern Division, I sentence you to 10 years imprisonment, effective forthwith. I will not fix a non-parole period.
  
8. The name of the complainant is permanently suppressed to protect her privacy.

9. You have 30 days to appeal to the Court of Appeal.



A handwritten signature in blue ink, appearing to be "Salesi Temo".

**Salesi Temo**  
**JUDGE**

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