

IN THE HIGH COURT OF FIJI
AT LAUTOKA
[CRIMINAL JURISDICTION]

CRIMINAL CASE NO. HAC 02 OF 2018

BETWEEN : **STATE**

AND : **WAISAKE NACEUCEU RAVASUA**

Counsel : ***Ms. P. Lata for the State***
Ms. K. Vulimainadave for the Accused

Hearing on : ***16th October 2020***
Sentence : ***04th November 2020***

SENTENCE

(The name of the complainant will be suppressed and will be referred to as PW1 or VLC)

1. Mr. Waisake Ravasua, you were charged as follows;

COUNT 1

Statement of Offence

RAPE: Contrary to section 207(1) and (2) (a) & (3) of the Crimes Act of 2009.

Particulars of Offence

Waisake Ravasua, on the 15th day of August 2017 at Lautoka, in the Western Division, inserted his penis into the vagina of VLC, an 11 year old girl.

2. Waisake Ravasua, you have freely and voluntarily pleaded guilty to the above count of Rape on 21st of September 2020, in the middle of the trial. I am satisfied and convinced that you have pleaded so, unequivocally and having understood the consequences of such a plea.
3. Summary of facts were not called for, as the complainant has already given evidence, when you decided to take a progressive approach. Then the plea was retaken and you pleaded guilty to the charge unconditionally.

4. The evidence of the PW1 disclosed that on a day in August 2017 (15th), while she was sleeping at her aunt, Sainiana's house her cousin Miji came and told her that Sai and Waisake are calling her. She got up and went to them. They were sleeping in the kitchen. She laid down between them. Then Waisake started touching her and her cousin told her to go out with Waisake. Then she went out with him and he took her to the creek. At the creek, Waisake took off her clothes and inserted his penis into her vagina. When she told him that it is painful, he took his penis out and ran back to the house. The PW1 was born on 08th of July 2006 and was below the age of 13 years then.
5. I find that the above facts support all elements of the charge in the Information, and find the charge proved on the facts transpired and agreed by you. Accordingly, I find you guilty on your own plea and I convict you of the count of Rape contrary to section 207 (1), (2) (a) and (3) of the Crimes Act 2009, as charged.
6. The maximum sentence for the offence of Rape contrary to section 207 (1) and (2) (b) of the Crimes Act 2009 is an imprisonment for life.
7. The tariff for the offence of Rape of child is an imprisonment term between 11 to 20 years. [**Aitcheson v State** [2018] FJSC 29; CAV0012.2018 (2 November 2018)].
8. There are no fresh aggravating factors as the above tariff was set in consideration of the submitted aggravating factors by the state.
9. The mitigation factors are that the accused was 28 years old and is a first time offender. In addition he has pleaded guilty before the conclusion of the trial showing his remorse.
10. In adopting the guidelines provided by **Aitcheson v State** (Supra) and **Koroivuki v State** [2013] FJCA 15; AAU0018.2010 (5 March 2013) and the objective seriousness of the offense, I select the 11 years of imprisonment as the starting point of your sentence.
11. In consideration of the factors set out in mitigation I will deduct 3 years and now your sentence would be 08 years of imprisonment. Furthermore, you will be given a discount of 1 year due to your plea of guilty before the conclusion of the trial. Therefore your final sentence is 07 years of imprisonment. In consideration of all the material and circumstances of this case, I set the non-parole period at 5 years allowing you to be released on parole, after the expiration of 5 years.
12. You have been arrested on the 23rd of December 2017 and were granted bail on the 02nd of February 2018. Therefore I will deduct 1 month and 10 days from your final term considering that as already served. The remainder you'll have to serve would be 06

years 10 months and 20 days and you'll be entitled for the consideration of parole after 4 years 10 months and 20 days.

13. You will have thirty (30) days to appeal to the Court of Appeal, if you so desire.



A handwritten signature in black ink, appearing to read "Chamath S. Morais".

Chamath S. Morais
JUDGE

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