

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**CRIMINAL JURISDICTION**  
**CRIMINAL CASE NO. HAC 012 OF 2019S**

STATE  
vs  
JIMIONE LEDUA

Counsels : Ms. K. Semisi, Ms. U. Tamanikaiyaroi and Mr. J. Nasa for State  
Ms. L. Ratidara and Mr. A. Waqanivalagi for Accused  
Hearings : 23, 24 and 25 November, 2020.  
Summing Up : 26 November, 2020.  
Judgment : 26 November, 2020.  
Sentence : 27 November, 2020.

---

SENTENCE

---

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

*“Count 1*

*Statement of Offence*

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

*Particulars of Offence*

*JIMIONE LEDUA between the 1<sup>st</sup> day of January 2018 - 11<sup>th</sup> October 2018 at Namacu Village, Koro Island in the Eastern Division, penetrated the vulva of MV, a child under the age of 13 years, with his penis.*

**Count 2**

**Statement of Offence**

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

**Particulars of Offence**

***JIMIONE LEDUA between the 1<sup>st</sup> day of January 2018 - 11<sup>th</sup> October 2018 at Namacu Village, Koro Island in the Eastern Division, penetrated the vulva of MS, a child under the age of 13 years, with his penis.***

2. The brief facts of the case were as follows. Between 1 January and 11 October 2018, you were 47 years old. You are a subsistence farmer and fisherman. You resided with your mother in the village. You are single and you have no children. The female child complainants, i.e. PW2 and PW3 were 7 and 6 years respectively. You are related to them. They treat you as one of their grandfathers. Your residence is near to theirs in the village.
3. At the material time, you enticed the child complainants' to your house, on separate occasions, by offering them lollies. In the house, you locked the doors, lay them on the floor, and took off their clothes. You took off your clothes and lay on top of them. You then slid your penis over their vulvas. In the process, you slightly penetrated the same. You had been tried and convicted in a High Court trial.
4. The offence of rape carried a maximum sentence of life imprisonment (see Section 207 (1) of the Crimes Act 2009). Parliament therefore views the offence as a serious one. It violates the dignity of a person. It is an unwarranted intrusion into the privacy of a person. It is an ultimate act of showing utter disrespect to a person. Therefore those who commit this offence, must expect a lengthy prison sentence to restore the balance, the harmony and atonement to the victim. For the rape of child, that is, anyone less than 18 years old, the tariff is a sentence between 11 and 20 years imprisonment. I refer to the authority of **Gordon Aitcheson v The State**, Criminal Petition CAV 012 of 2018, Supreme Court of Fiji. Of course, the final sentence will depend on the mitigating and aggravating factors.

5. The aggravating factors in this case were as follows:
- (i) **Serious Breach of Grandparent's Trust.** The two female complainants (i.e. PW2 and PW3) were related to you, and treat you as their grandfather. They call you "Tutu Jimi". You lived next to their residence. As an elder in the village, you are expected to look after and care for the two child complainants. They trusted you. But you breached their trust by committing the above offences against them. You will have to be punished with a heavy prison sentence as a warning to others.
  - (ii) **Rape of Children.** Unfortunately, this problem is becoming prevalent in our society, despite the heavy prison sentence passed by the courts for the rape of children. The court had said in the past, and will keep on saying that it will not tolerate the abuse of children in our society. As it had done in the past, and is now doing and will continue to do, it will pass heavy prison sentences for the rape of children, as a warning to others.
  - (iii) By offending against the two child complainants, you had no regards to their rights as children, no regards to their rights as human beings and no regards to their rights to live a happy and peaceful life.
  - (iv) You have caused untold miseries to the two complainants' families.
6. The mitigating factors were as follows:
- (i) At the age of 49, this was your first offence;
  - (ii) You had been remanded in custody, awaiting trial, for 1 year 11 months 15 days.
7. On count no. 1, I start with a sentence of 11 years imprisonment. I add 4 years for the aggravating factors, making a total of 15 years imprisonment. For time already served while remanded in custody, I deduct 2 years, leaving a balance of 13 years imprisonment. For being a first offender at the age of 49 years, I deduct another 2 years, leaving a balance of 11 years imprisonment. On count no. 1, I sentence you to 11 years imprisonment.

8. On count no. 2, I repeat the above process and sentence.
9. The summary of your sentence are as follows:
  - (i) Count no. 1 - Rape : 11 years imprisonment.
  - (ii) Count no. 2 - Rape : 11 years imprisonment.
10. Because of the totality principle of sentencing, I direct that the above sentences be made concurrent to each other, that is, a total sentence of 11 years imprisonment.
11. Mr. Jimione Ledua, for raping the two child complainants, between 1 January and 11 October 2018 at a village in Koro Island, in the Eastern Division, I sentence you to 11 years imprisonment, with a non-parole period of 9 years, effective forthwith.
12. The names of the two child complainants are permanently suppressed to protect their privacy.
13. In addition to the above, a permanent domestic violence order with standard non-molestation conditions is issued for the safety of the complainants. This order will remain subject to the orders of this court.
14. You have 30 days to appeal to the Court of Appeal.



**Solicitor for the State**

**Solicitor for the Accused**

**:**

**:**

**Office of the Director of Public Prosecution, Suva.**

**Legal Aid Commission, Suva.**

**Salesi Temo**  
**JUDGE**