



*Particulars of Offence*

**SERUPEPELI KURUIDANINI**, on the 1<sup>st</sup> day of April 2022, at Nalotu Village, in Yawe, in Kadavu, in the Southern Division, penetrated the mouth of **VILIAME DUSH RAWAIRUA**, a child under the age of 13 years with his penis.

2. On the 7<sup>th</sup> of June 2022, you pleaded not guilty to this offence; hence, the matter was adjourned till the 21<sup>st</sup> of June 2022 to finalize pre-trial issues. However, on the 16<sup>th</sup> of August 2022, you informed the Court that you wished to change your plea. Accordingly, you pleaded guilty to this offence. I am satisfied that you have fully comprehended the consequence of your plea and that your plea was free and voluntary. I now convict you of this offence as charged in the Information.
3. The Summary of Facts states that you met the Complainant at one of your friends' house. You had then told the Complainant to perform oral sex, where you had penetrated his mouth with your penis. The Complainant was nine years old at that time.
4. This is a case of sexual exploitation of a young child by a known person. Sexual exploitation of children has become a social menace. The social enigma of abusing children for sexual gratification needs to address promptly and effectively.
5. The primary purpose of this sentence is founded on the principle of deterrence. It is the responsibility of the Court to deter offenders or other persons from committing offences of the same or similar nature and protect the community from offenders of this nature. A harsh and long custodial sentence is inevitable for offences of this nature to demonstrate the gravity of the offence and reflect that civilized society denounces such crimes without any reservation.

6. The maximum penalty for Rape is life imprisonment. Gates CJ in **Aitcheson v State (2018) FJSC 29; CAV0012.2018 (2<sup>nd</sup> of November 2018)** held that the tariff for the Rape of a child is between 11 – 20 years' imprisonment period.
7. Rape is a physical invasion committed on the victim under a coercive circumstance. Therefore, the degree of invasion of the victim's bodily integrity and sexual autonomy is an indispensable factor in determining the gravity and impact of the crime on the victim. However, the Prosecution decided not to file any Victim Impact Report. Hence, there is no material before the Court to determine the level of harm caused by this crime.
8. The Summary of Facts briefly explained the incident but provided no details of any aggravating circumstances. There is no evidence of any force or violence used by the Accused.
9. The age difference between you and the Complainant is substantially high. By committing this crime, you have exposed this nine-year old child to sexual activities at a very young age. I consider these reasons as aggravating factors of this offence.
10. In his mitigation submissions, the learned Counsel for the Defence submitted your personal and family background, which has no mitigatory value. You are a first offender; hence, you are entitled to a substantive discount. You pleaded guilty at the early stages of the proceedings. Hence, you are entitled to a discount for your early plea.
11. In view of the reasons discussed above, I sentence you to a period of thirteen (13) years imprisonment for this offence of Rape.
12. Having considered the seriousness of this crime, the purpose of this sentence, and opportunities for rehabilitation, I find ten (10) years of non-parole period would serve the purpose of this sentence. Hence, you are not eligible for parole for (10) years pursuant to Section 18 (1) of the Sentencing and Penalties Act.

**Head Sentence**

13. Accordingly, I sentence you to a period of thirteen (13) years imprisonment for this offence of Rape as charged in the Information. Moreover, you are not entitled to parole for ten (10) years pursuant to Section 18 (1) of the Sentencing and Penalties Act.

**Actual Period of the Sentence**

14. You have been in remand custody for this case for nearly one (1) month and twenty five (25) days before the sentence. Pursuant to Section 24 of the Sentencing and Penalties Act, I consider two (02) months as a period of imprisonment you have already served.
15. Accordingly, the actual sentencing period is **twelve (12) years and ten (10) months** imprisonment with a non-parole period of **nine (9) years and ten (10) months**.
16. Thirty (3) days to appeal to the Fiji Court of Appeal.



  
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Hon. Mr. Justice R.D.R.T. Rajasinghe

**At Suva**

02<sup>nd</sup> September 2022

**Solicitors**

Office of the Director of Public Prosecutions for the State.  
Office of the Legal Aid Commission for the Accused