

IN THE HIGH COURT OF FIJI

AT SUVA

[CRIMINAL JURISDICTION]

CRIMINAL CASE NO. HAC 104 OF 2013

BETWEEN : **STATE**

AND : **SAKEASI SAULEQARAKI**

Counsel : Mr L Baleilevuka for the State
Mr M Fesaitu for the Accused

Date of Hearing : **17 July 2023**

Date of Sentence : **18 July 2023**

SENTENCE

- [1] Sakeasi Sauleqaraki, you appear for sentence after the Court of Appeal on 25 June 2021 set aside your acquittals on two counts of rape and entered convictions in an appeal taken by the State (*State v Sauleqaraki* Cr App No 156 of 2015).
- [2] While your sentencing was pending before this Court, you appealed against the Court of Appeal's judgment to the Supreme Court.
- [3] On 29 June 2023, the Supreme Court dismissed your appeal and affirmed your convictions (*Sauleqaraki v State* Cr App No CAV 0007 of 2021).
- [4] There is no impediment for this Court to proceed to sentence you now as you have exhausted your right of appeal against your convictions.

- [5] The facts have been succinctly summarized in paragraph [5] of the Court of Appeal judgment as follows:

The complainant in this case was 18 years old at the time of the incident. The respondent is her father's younger brother and during the material time the complainant was staying with the respondent and his family at Nawaikama in Gau Island. The complainant went to her father's elder brother's house at Somosomo on 09 January 2013. On 14 January 2013, the respondent visited Somosomo with other villagers. To get back home, the respondent and the complainant left for Nawaikama around 9.00 pm by foot. According to the complainant while they were on their way, at Delainaniu, the respondent penetrated her vagina with his penis without her consent and at Nakobua, he penetrated her vagina with his fingers without her consent.

- [6] At the time of the offending you were in your early forties. You are now 51 years old. You are married with five children and four grandchildren. You are a first time offender. Your previous good character is a mitigating factor. After your initial acquittal in 2015 you secured an employment as a building contractor and continued with that employment until the Supreme Court remanded you in custody on 29 June 2023.

- [7] However, you grossly breached the trust of the complainant who was your niece and half your age. The commission of the offences involved planning by you to avoid suspicion or detection by other family members. During sexual intercourse, the complainant experienced physical pain and was traumatized. The rape was repeated and the Court of Appeal found that the complainant was coerced into consenting on both occasions because you held a position of authority over her. These factors aggravated the offending.

[8] Your remand period is about 9 months and 14 days. I make a downward adjustment to your sentence to reflect this period with a further adjustment in sentence to reflect the age of the offences or the delay of almost 10 years in disposing the case, which is not your fault. For these factors, I give you a discount of 2 years.

[9] The seriousness of the offence of rape is reflected in the maximum sentence of life imprisonment.

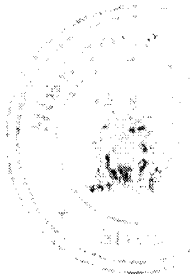
[10] In *Rokolaba v State* [2018] FJSC 12; CAV0011.2017 (26 April 2018) the Supreme Court observed:

[39] Though starting points in Fiji for calculating sentence used to be, for adult victims, as low as 7 years – *Mohammed Kasim v. The State* C of A No. 14 of 1993 27 May 1994, the court said:

“We must stress, however, that the particular circumstances of a case will mean that there are cases where the proper sentence may be substantially higher or substantially lower than the starting point.”

[40] *Kasim* was decided in 1994. Tariffs for sexual offences and specially rape have moved upwards as befits such a serious offence under the Crimes Act, and which in turn reflects the community's increasing yet justified sense of outrage and horror for the crime. Presently the tariff for rape of an adult has been set between 7 and 15 years imprisonment - *State v. Marawa* [2004] FJHC 338. In really bad cases the tariff may have to be exceeded.

- [11] For the two counts of rape, I pick an aggregate term of 7 years imprisonment, add 7 years to reflect the aggravating factors, deduct 2 years for the mitigating factors and a further 2 years for the remand period and delay.
- [12] Sakeasi Sauleqaraki, you are sentenced to an aggregate sentence of 10 years' imprisonment with a non-parole period of 7 years.



A handwritten signature in black ink, appearing to read 'Daniel Goundar', written over a horizontal dotted line.

Hon. Mr Justice Daniel Goundar

Solicitors:

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