

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**[CRIMINAL JURISDICTION]**

**CRIMINAL CASE NO. HAC 169 OF 2021**

**BETWEEN** : **STATE**

**AND** : **ULAIASI KANACUVA**

**Counsel** : Ms U Tamanikaiyaroi for the State  
Ms L Ratidara for the Accused

**Date of Hearing** : **23 February & 23 May 2023**

**Date of Judgment** : **1 August 2023**

**Date of Sentence** : **11 August 2023**

**SENTENCE**

- [1] Ulaiasi Kanacuva, you appear for sentence after the Court found you guilty of two counts of rape [s 207 (1) and 2 (a) & (b)] and one count of sexual assault [s 210 (1) (a) Crimes Act].
- [2] The victim is your stepdaughter. Both incidents occurred at Natakalau, Ovalau. At the time, the victim was living with you. The first incident occurred in November 2016, three months after the victim had given birth. At the time she was in her early twenties and was in a relationship with another man.
- [3] On the day of the incident she fell asleep after breastfeeding her child around lunchtime. She was only wearing a dress and no undergarments as her childbirth injuries had not healed. She suddenly woke up when she felt someone caressing

her breast. You then had sexual intercourse with her and when she screamed your wife came and hit you with a stick. Because of that incident the victim left her home on the same day with her child to live with her uncle in another village.

- [4] In 2021, the victim returned to your home out of concern for her mother. On 11 September 2021, she went out with friends and returned home late at night. She went to bed and in the early hours of 12 September 2021, she woke up and found you beside her bed and caressing her breast. After that you penetrated her vagina with your finger. She screamed and punched you and that is when you left her room. She immediately alerted the police and was medically examined on the same day. The doctor found abrasion and bruise in the victim's genitalia.
- [5] You are 38 years old. You had children of your own when you were married to the victim's mother. Currently, you are separated from your wife. You worked at the Pacific Fishing Company in Levuka as a labourer and supported your family before you were arrested in this case. However, your personal or your family circumstances do not mitigate your crime.
- [6] There is no excuse for what you did to the victim. You exploited the victim for your sexual gratification, knowing she was your stepdaughter. You breached her trust. She left her home and her mother when you raped her on the first occasion. Five years later when she returned to her home to be with her mother, you raped her again, adding further trauma to her. She felt humiliated.
- [7] Not much mercy can be shown to an offender who expresses little remorse for his crime. The courts duty is to denounce your crime in the strongest terms.
- [8] The only relevant mitigating factor is your previous good character.

- [9] Rape is punishable by life imprisonment and the tariff is from 7-15 years imprisonment (*Rokolaba v State* [2018] FJSC 12; CAV0011.2017 (26 April 2018). Sexual assault is punishable by 10 years imprisonment and the tariff is from 2-8 years imprisonment (*State v Laca* HAC252 of 2011).
- [10] I have decided to sentence you to an aggregate sentence to reflect your total criminality.
- [11] I pick 10 years as a starting point, add 4 years for the aggravating factors and deduct 2 years for the mitigating factors.
- [12] Ulaiasi Kanacuva, you are sentenced to an aggregate term of 12 years imprisonment for two counts of rape and one count of sexual assault.
- [13] You have been in custody on remand for nearly 2 years. This term is considered as sentence already served.
- [14] The balance sentence for you to serve is 10 years imprisonment with a non- parole period of 7 years.



.....  
**Hon. Mr Justice Daniel Goundar**

**Solicitors:**

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