

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**[CRIMINAL JURISDICTION]**

**CRIMINAL CASE NO. HAC 284 OF 2021**

**BETWEEN**

**STATE**

**AND**

**JARROD RAIKANIKODA**

**Counsel**

Ms W Elo for the State

Mr N Chand and Mr P Sharma for the Accused

**Date of Hearing**

**25 July 2023**

**Date of Sentence**

**27 October 2023**

### **SENTENCE**

- [1] The accused after trial was convicted of sexual assault.
- [2] The victim and the accused are neighbours and of the same age. They were friends and knew each other well.
- [3] In the early hours of 14 November 2021 the accused went to the victim's house, heavily intoxicated. He approached the victim outside her house. He asked her for sex. She expressly said no and walked away. He persisted and followed her. She sat down on a chair. He came and sat next to her. He tried to persuade her to have sex with him. While conversing he caressed her thighs and licked her shoulder. She got up and walked inside her house. He tried to enter the house but when he saw the victim's brother was awake he returned to his house.

- [4] The maximum sentence for sexual assault is 10 years imprisonment. The tariff is from 2-8 years imprisonment and the lower range applies to assault that is fleeting and does not involve the naked genitalia of the victim and the offender (*State v Laca* - Sentence [2012] FJHC 1414; HAC252.2011 (14 November 2012)). A non-custodial sentence will only be appropriate in cases where the ages of the victim and the accused are similar, and the assault of a non-penetrative and fleeting type (*Rokota v The State* [2002] FJHC 168; HAA0068J.2002S (23 August 2002)).
- [5] The aggravating factor is that the accused was intoxicated when he committed the offence.
- [6] The mitigating factors are that the accused is a young and a first time offender.
- [7] Both the victim and the accused were 18 years old at the time of the offending. The assault was fleeting and did not involve use of physical force. But it was an unwelcomed touching of the victim's body to persuade her to have sex when she clearly told him no.
- [8] The accused spent about two weeks in custody on remand. The accused is sentenced to 12 months imprisonment suspended for 3 years. This sentence should be a deterrent for the accused.



A handwritten signature in blue ink, appearing to read "Daniel Goundar".

**Hon. Mr Justice Daniel Goundar**

**Solicitors:**

Office of the Director of Public Prosecutions for the State

Raikanikoda & Associates for the Accused