

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**CRIMINAL JURISDICTION**

**Crim. Case No: HAC 188 of 2023**

**STATE**

vs.

**SEVETI KOROIATAMA RAVAKASAI**

<b>Counsel:</b>	Ms. P. Kumar with Ms. J. Fatiaki for the State Mr. T. Varinava for Accused
<b>Dates of Hearing:</b>	22 <sup>nd</sup> and 23 <sup>rd</sup> April 2024
<b>Date of Closing Submission:</b>	26 <sup>th</sup> April 2024
<b>Date of Judgment:</b>	19 <sup>th</sup> June 2024
<b>Date of Sentence:</b>	05 <sup>th</sup> July 2024

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**SENTENCE**

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1. The name of the Complainant is suppressed.
2. On the 19th of June 2024, the Court found you guilty and convicted of one count of Rape contrary to Section 207 (1) (2) (b) and (3) of the Crimes Act, which carries a maximum penalty of life imprisonment, one count of Rape, contrary to Section 207 (1) (2) (a) and (3) of the Crimes Act, which carries a maximum penalty of life imprisonment.

3. It was established that you had penetrated the vulva of the Complainant with your tongue on the 12th of February 2022 and then penetrated her vagina with your penis during the same transaction. The Complainant is your cousin and was living with her uncle in the village. You came to her house when no one was home and then lured her inside the house, and then committed this crime. The Complainant was 12 years old at that time.
4. Rape is one of the most humiliating and distressing crimes. It becomes more serious when it is involved with a child victim. Hence, I find that Rape of this nature is a grave crime.
5. The Fiji Court of Appeal in Subramani v State [2018] FJCA 82; AAU0112.2014 (the 1st of June 2018) has discussed the appropriate objective of the sentencing of offenders who have committed offences of gross sexual exploitation of young children, where the Fiji Court of Appeal held that:

*“The offence of rape of young person related to the appellant is a serious offence. In this case the complainant was 11 years old and the appellant was her grand uncle (her grandfather’s brother). The authorities indicate that whilst rehabilitation is a factor to be considered when fixing a non-parole period, so also are deterrence, denunciation, condign punishment and community protection and expectations. The appropriate person to balance these objectives in each case is the sentencing judge. In the present case, given the age of the appellant, re-habilitation is not a particularly relevant matter whereas the expectations of the community and the protection of young girls should be reflected in both the head sentence and the non-parole term so as to send a strong signal that the courts will impose appropriate sentences in such cases.”*

6. The Supreme Court of Fiji in Aitcheson v State [2018] FJSC 29; CAV0012.2018 (2 November 2018) held that the increasing prevalence of the crimes of this nature demands the courts to consider widening the tariff for the rape against children. The Supreme Court of Fiji held that:

*"The increasing prevalence of these crimes, crimes characterised by disturbing aggravating circumstances, means the court must consider widening the tariff for rape against children. It will be for judges to exercise their discretion taking into account the age group of these child victims. I do not for myself believe that that judicial discretion should be shackled. But it is obvious to state that crimes like these on the youngest children are the most abhorrent."*

7. Given the serious nature and the prevalence of crimes of this nature, 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 society denounces such crimes without any reservation.
8. Gates CJ in Aitcheson v State (supra) held that the tariff for Rape of a child is between 11 - 20 years' imprisonment period.
9. These two offences are founded on the same series of offences. Therefore, the Court finds it appropriate to impose an aggregate sentence according to Section 17 of the Sentencing and Penalties Act.
10. The Victim Impact Report details the adverse effect these offences have had on the young Complainant. This offending has caused her significant hardship, which I consider in determining the level of harm in this matter.
11. You breached the trust that she had in you as an elderly cousin of hers. The age gap between you and the Complainant is significant. By doing this crime, you exposed this young Complainant to sexual activities at a very young age, thus preventing her from having a

natural growth of maturity in her life. I consider these factors to be aggravating circumstances.

12. In the mitigation submissions, the learned Counsel for the Defence submitted your personal and family background; I do not find any mitigatory value in your family background.
13. You are not a first offender. There is no evidence or information before this Court to consider your general reputation in society, and there is no information about any significant contribution you have made to the community. Considering these reasons, you are not entitled to a discount on your previous character.
14. Having considered the seriousness of the crime, the purpose of the sentence, the level of harm, and the aggravating factors, I sentence you to fourteen (14) years of imprisonment as an aggregate sentence for these two offences.
15. Considering the seriousness of this crime, the purpose of this sentence, your age, and opportunities for rehabilitation, I find that twelve (12) years of non-parole period would serve the purpose of this sentence. Hence, you are not eligible for parole for twelve (12) years pursuant to Section 18 (1) of the Sentencing and Penalties Act.

#### **Head Sentence**

16. Accordingly, I sentence you to a period of fourteen (14) years imprisonment for the two counts of Rape as charged in the Information. Moreover, you are not entitled to parole for twelve (12) years pursuant to Section 18 (1) of the Sentencing and Penalties Act.

#### **Actual Period of the Sentence**

17. You have been in custody for this case for nearly one hundred and forty-one (141) days, as the Court did not grant you bail. Under Section 24 of the Sentencing and Penalties Act, I consider five (05) months to be a period of imprisonment you have already served.

18. Accordingly, the actual sentencing period is **thirteen (13) years and seven (07) months** imprisonment with a non-parole period of **eleven (11) years and seven (07) months**.
19. Since this incident involves domestic violence, I am satisfied that there are sufficient grounds to consider making an order under the Domestic Violence Act. I accordingly make a Permanent Domestic Violence Restraining Order against you with standard non-molestation conditions under Sections 24 and 28 of the Domestic Violence Act. The above Domestic Violence Restraining Order will be in force until this Court or any other competent Court verifies or suspends it. Furthermore, if you breach this restraining order, you will be charged and prosecuted for an offence under Section 77 of the Domestic Violence Act.
20. Thirty (30) days to appeal to the Fiji Court of Appeal.



A handwritten signature in blue ink, consisting of stylized, overlapping loops and lines.

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

**At Suva**

05<sup>th</sup> July 2024

**Solicitors**

Office of the Director of Public Prosecutions for the State.

Office of the Legal Aid Commission for the Accused.