

**IN THE HIGH COURT OF FIJI**

**AT LAUTOKA**

**CRIMINAL JURISDICTION**

**CRIMINAL CASE NO : HAC 162 OF 2023**

**STATE**

**V**

**EMOSI TURELAU RATU**

Counsel: Ms B. Navunicagi with Ms R. Pai for State  
Ms P. Reddy with Ms Mario for Defence

Date of Judgment: 22 August 2025  
Date of Submissions: 26 August 2025  
Date of Sentence: 11 September 2025

**SENTENCE**

1. Emosi Turelau Ratu (Emosi), you were convicted after trial of multiple sexual offences on the following information filed by the Director of Public Prosecutions:

**COUNT ONE**

*Statement of Offence*

**INDECENT ASSAULT:** Contrary to Section 212 (1) of the Crimes Act 2009.

*Particulars of the Offence*

**EMOSI TURELAU RATU**, on the 1<sup>st</sup> day of October 2023, at Lautoka in the Western Division, unlawfully and indecently assaulted **SALANIETA NAI TUVOU** by touching her breast.

**COUNT TWO**

*Statement of Offence*

**RAPE**: Contrary to Section 207 (1) and (2) (b) of the Crimes Act 2009.

*Particulars of Offence*

**EMOSI TURELAU RATU**, on the 1<sup>st</sup> day of October 2023, at Lautoka in the Western Division, penetrated the vagina of **SALANIETA NAI TUVOU** with his finger, without her consent.

**COUNT THREE**

*Statement of Offence*

**RAPE**: Contrary to section 207 (1) and (2) (a) of the Crimes Act 2009.

*Particulars of Offence*

**EMOSI TURELAU RATU**, on the 01<sup>st</sup> day of October, 2023, at Lautoka in the Western Division, penetrated the vagina of **SALANIETA NAI TUVOU** with his penis, without her consent.

**COUNT FOUR**

*Statement of Offence*

**SEXUAL ASSAULT**: Contrary to section 210 (1) (a) of the Crimes Act 2009.

*Particulars of Offence*

**EMOSI TURELAU RATU**, on the 01<sup>st</sup> day of October 2023, at Lautoka, in the Western Division, unlawfully and indecently assaulted **SALANIETA NAI TUVOU** by sucking her breasts.

2. The facts of the case are that the victim (20y) came to live in your house because her father was living with you. The victim was your niece. You and victim's father attended a birthday party and got drunk. While the victim's father was still drinking at the party, you came home. You went to the room where the victim was lying down. You said that you really loved her, and that you wanted to have sex with her. She was shocked. When she kept on refusing to accede to your demand, you forcefully grabbed her hand and pushed her down to the mattress. You pulled her pants and panty down and inserted two of your fingers inside her vagina. You then lifted her t-shirt and touched and sucked her breasts while she was crying. You then put your penis inside her vagina and had sexual intercourse with her for about 5 minutes. Once done, you had a wash and went to sleep. The victim complained to your daughter and ran to her aunt's house. She lodged a complaint with the police the same night. The doctor who examined the victim observed injuries on victim's genitalia.

3. In selecting the sentence best suited to you, I must regard the proportionality principle enshrined in the Constitution and Section 4 of the Sentencing and the Penalties Act 2009 (SPA). Accordingly, I would regard the maximum penalty prescribed for the offence, the current sentencing practice and the applicable guidelines issued by the courts. Considering the seriousness of the offence and the harm caused to the victim, I would select the starting point. The final sentence will be arrived at after making just adjustments for the aggravating and mitigating factors.
4. Sexual offences are on the rise and most prevalent in Fiji. The duty of this Court is to see that the sentences are such as to operate as a powerful deterrent factor to prevent the commission of such offences. The sexual offenders must receive condign punishment to mark the society's outrage and to denounce sexual abuse in our society. Protection of the community is also an important consideration.
5. The maximum sentence for Rape is life imprisonment. The sentencing tariff for adult rape ranges from 7 years to 15 years' imprisonment<sup>1</sup>. The starting point in an adult rape case is at least seven years' imprisonment. There are cases where the proper sentence may be substantially higher or substantially lower than that starting point, depending on the circumstances of the case.<sup>2</sup> The maximum sentence for the offence of Indecent Assault is five years imprisonment. The tariff is set between 12 months and 4 years imprisonment, if there is violence<sup>3</sup>. The maximum sentence for Sexual Assault is ten years imprisonment<sup>4</sup>. The tariff ranges from 2 years to 8 years imprisonment<sup>5</sup>. The top range is reserved for blatant manipulation of the naked genitalia or anus. A contact with the genitalia of the victim by the offender using part of his body other than the genitalia or an object falls into Category 2 of the *Laca*<sup>6</sup> sentencing tariff.

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<sup>1</sup> Rokolaba v State [2018] FJSC 12 (26 April 2018); State v Marawa [2004] FJHC 338

<sup>2</sup> Kasim v State [1994] FJCA 25; Aau0021j.93s (27 May 1994) State v Marawa [2004] FJHC 338]; Rokolaba v State [2018] FJSC 12 (26 April 2018)

<sup>3</sup> Ratu Penioni Rokota v State (2002) FJHC 168

<sup>4</sup> Section 210(1) of the Crimes Act

<sup>5</sup> State v Abdul Khaiyum (2012) FJHC 1274 (10 August 2012); State v Laca (2012) FJHC 1414 (14 November 2012)

<sup>6</sup> State v Laca (2012) FJHC 1414 (14 November 2012)

6. According to Section 17 of the Sentencing and Penalties Act 2009, if an offender is convicted of more than one offence founded on the same facts, or which form a series of offences of the same or a similar character, the court has the discretion to impose an aggregate sentence of imprisonment in respect of those offences. I would impose an aggregate sentence for all the offences you have committed.
7. Having taken into consideration the seriousness of the offence, the culpability and the harm caused to the victim, I select a starting point of 8 years for the aggregate sentence.
8. The Counsel from both sides filed helpful sentencing/ mitigation submissions for which I am grateful. The following aggravating and mitigation factors have been identified which will be used to make appropriate adjustments to the starting point:

Aggravating factors:

- (a). You committed these offences on a vulnerable victim.
- (b). You stripped her naked and blocked her mouth to prevent her from raising alarm.
- (c). You took the opportunity to satisfy your lustful demand when the victim's father was drinking at a party.
- (d). The victim was your niece. She trusted you. You breached that trust.
- (e). You committed the offence under influence of alcohol.
- (f). At the time of the offence, you were 45 years old while the victim was 20. The age gap between you and the victim aggravates the offence.

Mitigating Factors:

- (a). You are 47 years of age and a father of three children who are still schooling. You are a farmer cum driver earning \$120 a week. You are divorced and you look after the children as the sole breadwinner of the family.

(b). You are a first offender. You have maintained a clear record until you committed these offences. However, your previous good character will not carry much weight as you have committed a sexual offence in breach of trust.

9. According to the Record, you had spent approximately one month in remand before the trial. I would consider your remand period as part of your sentence already served. I add 2 years to the starting point of 8 years for the above-mentioned list of aggravating factors to arrive at an interim sentence of 10 years' imprisonment. I reduce 1 year for the mitigating factors to arrive at an aggregate sentence of 9 years' imprisonment.

10. You are a first offender. I believe you have a good potential for rehabilitation. To balance rehabilitation with other sentencing purposes, I impose a non-parole period of 7 years.

11. Summary

Emosi Turelau Ratu, you are sentenced to an aggregate imprisonment term of nine (09) years with a non-parole period of seven (07) years. You are eligible for parole after serving seven (7) years in the correction facility.

12. You have 30 days to appeal to the Court of Appeal.



A handwritten signature in blue ink, appearing to read "Aruna Aluthge", is written over a horizontal line.

Aruna Aluthge

Judge

11 September 2025

At Lautoka

Solicitors:

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