

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**CRIMINAL JURISDICTION**

**Criminal Case No. HAC 024 of 2014**

**STATE**

**v**

**VELEKI RATUMAIUCUNA**

Counsel: Ms A. Vavadakua for the State  
Mr. J. Savou (L.A.C.) for the accused.

Dates of hearing: 24 September, 3, 9 October 2014

Date of Sentence: 21 October 2014

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**SENTENCE**

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The accused entered a plea of guilty in this Court on the 3<sup>rd</sup> October 2014 to the following count:

**COUNT ONE*****Statement of Offence***

**RAPE:** Contrary to section 207 (1) and (2) (b) and (3) of the Crimes Decree No. 44 of 2009.

***Particulars of Offence***

**VELEKI RATUMAIUCUNA** on the 21<sup>st</sup> day of December 2013 at Nacobo Village, Levuka, in the Eastern Division penetrated the vulva of XXX, a child under the age of 13 years, with his tongue.

2. The accused had been brought before the Magistrate on the 23<sup>rd</sup> December 2013 and first appeared in this Court on the 24<sup>th</sup> January 2014. It was when he was first represented by Counsel on 3<sup>rd</sup> October 2014 that he entered the plea of guilty. This Court regards this as a plea at first opportunity after he had been properly advised by his legal representative.
  
3. The all too familiar facts of the case are that the accused and Lucy (not her real name) lived in the same village in Ovalau. He is 70 and she is 9. On the 21<sup>st</sup> December 2013, Lucy's mother went to Suva to visit an elder daughter. She told Lucy to go to the accused's house when her father was not home. At about 3pm that day the accused called Lucy to his house. He told her to go to the bedroom and there her panty was removed and he licked her genitals. Lucy was scared, stood up and ran away. She later told her father what had happened. The accused was arrested and interviewed under caution in which he admitted the offence.

4. Counsel for the accused submits by way of a written plea in mitigation that the accused is married with 5 children and 30 grandchildren. He is now 72 years old. He has a clear record. He co-operated with the Police, is remorseful and begs the Court for leniency. Most importantly by his early plea of guilty he has saved this Court time and expense and in doing so has saved Lucy from coming to Court and reliving the trauma through giving evidence.
5. The Court of Appeal has said in **Anand Abhay Raj** (AAU 0038 of 2010) that the range of sentences for rape of a child should be between 10 and 16 years. (Upheld by the Supreme Court in **A.A. Raj** (CAV 0003.2014)).
6. For this crime I take a starting point of twelve years. For the enormous age difference and one which must have subjugated the victim I add two years. For the breach of trust in which the mother had appointed the accused as a part time guardian I add two more years. From this total of sixteen years I deduct 1 year for the clear record leaving a term of fifteen years. For the early plea of guilty and in particular because it relieves the child of reliving the ordeal I deduct four years. This leaves an interim total of eleven years. He has been in remand for eleven months and he must have credit for that. His sentence will be reduced by one year to ten years. He is also old and physically handicapped and as a special act of mercy with reference to those features which will make his life a misery in prison, I deduct a further two years. The accused will spend a total of eight years in prison.
7. This term of eight years is not to be seen as bringing the lower end of the tariff down. It is a sentence of mercy recognizing special circumstances of physical handicap and age.

8. I set a minimum term of five years imprisonment before he is eligible for parole.

Term: 8 years imprisonment  
5 years minimum.



At Suva  
21 October 2014

A handwritten signature in black ink, which appears to read "P. K. Madigan". The signature is written in a cursive, flowing style.

**P. K. Madigan**  
**Judge**