

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

**Criminal Case No.: HAC 53 of 2015**

**STATE**

**V**

**SAKARAIA QORO**

**Counsel** : Mr. A. Singh for the State.  
: Ms. N. Sharma and Ms. V. Narara [LAC] for the  
Accused.

**Dates of Hearing** : 21, 26 March, 2018  
**Closing Speeches** : 27 March, 2018  
**Date of Summing Up** : 28 March, 2018  
**Date of Judgment** : 29 March, 2018  
**Date of Sentence** : 11 April, 2018

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**SENTENCE**

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*(The name of the victim is suppressed she will be referred to as "MW")*

1. In a judgment delivered on 29 March, 2018 this court found the accused guilty and convicted him for one count of rape as per the following information:

**COUNT ONE**

*Statement of Offence*

**RAPE**: Contrary to section 207 (1) & (2) (a) of the Crimes Act No. 44 of 2009.

*Particulars of Offence*

**SAKARAIA QORO** on the 24<sup>th</sup> day of March, 2015 at Lautoka in the Western Division, penetrated the vagina of “**MW**” with his penis without the consent of the said “**MW**”.

The brief facts were as follows:

2. In the year 2015 the victim was 15 years of age and a Form 3 student. On 24 March, 2015 she did not go to school since she was sick. At about 2pm the accused called the victim on her mobile phone asking her to accompany him to town so that she could assist him in doing a research assignment for his daughter.
3. After seeking permission from her aunt Mereoni Raitala the victim went to the roadside where the accused was waiting for her. She was walking in front and the accused was following her, as the victim was walking past the cassava patch the accused got hold of both her hands from behind and dragged her back to the cassava patch.
4. At the cassava patch, the accused pushed the victim on the grass thereafter he turned her by her chest so that she could face him. The accused then pressed her mouth whilst on his knees removed her panty and also pulled her skirt up to her stomach. The accused removed his <sup>3</sup>/<sub>4</sub> pants and lay on top of the victim and then forced his erected penis into her vagina.
5. When the accused was doing this the victim was scared, shaking and she also felt pain. The victim shouted for help but no one was around to help her. The victim managed to push the accused away and ran home, at home she told her aunty everything the accused had done to her.

6. The victim with her aunty reported the matter to the police the same day and thereafter she was medically examined.
7. Both counsel have filed helpful written sentence submissions for which the court is grateful.
8. Counsel for the accused presented the following personal details and mitigation on behalf of the accused:
  - a) The accused is a first offender;
  - b) He was 34 years of age at the time of the offending;
  - c) The accused is married and has a daughter who is 16 years of age;
  - d) Sole breadwinner of the family also looks after his elderly mother;
  - e) Employed as a Grounds man earning \$200.00 per week;
  - f) Accused seeks leniency of the court;
  - g). The accused cooperated with the police during the course of investigations;
  - h). No injuries to the victim and no weapons used.
9. I accept in accordance with the Supreme Court decision in *Anand Abhay Raj -vs.- The State, CAV 0003 of 2014* that the personal circumstances of an accused person has little mitigatory value in cases of sexual nature.
10. The aggravating features are:
  - a) Breach of Trust

The victim knew the accused who was her paternal uncle. The accused breached the trust of the victim by his actions. The victim was innocent and vulnerable. The accused took advantage of this by deceiving the victim into believing that he required her to help him do a research assignment for his daughter. There is also a certain degree of planning by the accused in this regard.

b) Education

As per the victim impact statement filed in court the victim could not concentrate in school work after the incident since she was psychologically affected and at one time she had become suicidal requiring counseling.

c) Age Difference

The victim was 15 years of age whereas the accused was 34 years of age. The age difference was 19 years which is substantial.

11. The maximum penalty for the offence of rape is life imprisonment which means this offence falls under one of the most serious category of offences. The Supreme Court of Fiji in the decision of *Anand Abhay Raj* (supra) has confirmed that the tariff for the rape of a juvenile is now a sentence between 10 years to 16 years imprisonment.
12. It is the duty of the court to protect children from sexual exploitation of any kind that is the reason why the law has imposed life imprisonment as the maximum penalty.
13. There has also been an increase in sexual offences involving offenders who are matured adults.
14. Mr. Qoro as a matured adult and uncle of the victim you have brought shame to the sanctity of the relationship between an uncle and a niece needless to mention the discomfort brought upon the victim and her family as a result of your sexual lust. This court will be failing in its duty if a deterrent sentence was not imposed. You should be ashamed of yourself. You have shattered the dreams of this enterprising young child and no amount of repentance will bring back what she has lost. Rape not

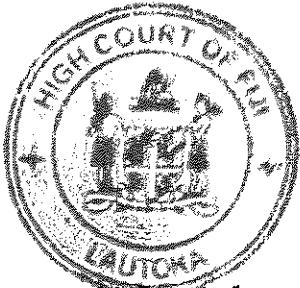
only destroys a woman's soul but also shatters her self-respect and the hope to live a normal life.

15. It is disgusting to note the manner in which you had breached the trust of this child by deceiving her into believing that you needed her assistance for your daughter's assignment when you had evil intentions.
16. After assessing the objective seriousness of the offence committed I take 12 years imprisonment as the starting point of your sentence. I add 4 years for the aggravating factors, bringing an interim total of 16 years imprisonment. The personal circumstances and family background of the accused has little mitigatory value, however, I find the accused good character has substantive mitigating value. I therefore reduce the sentence by 2 years.
17. I note from the court file that the accused was remanded for 2 months and 26 days (from 1<sup>st</sup> April, 2015 to 12<sup>th</sup> June, 2015 and from 29<sup>th</sup> March, 2018 to 11<sup>th</sup> April, 2018) . I exercise my discretion to reduce the sentence for the remand period by three months in accordance with section 24 of the Sentencing and Penalties Act as a period of imprisonment already served by you. The final sentence is 13 years and 9 months imprisonment.
18. Having considered section 4 (1) of the Sentencing and Penalties Act and the serious nature of the offence committed on a victim who was 15 years of age compels me to state that the purpose of this sentence is to punish offender's to an extent and in a manner which is just in all the circumstances of the case and to deter offenders and other persons from committing offences of the same or similar nature.

19. Under section 18 (1) of the Sentencing and Penalties Act, I impose 10 years as a non-parole period to be served before the accused is eligible for parole. I consider this non-parole period to be appropriate in the rehabilitation of the accused which is just in the circumstances of this case.


20. In summary I pass a sentence of 13 years and 9 months imprisonment with a non-parole period of 10 years to be served before the accused is eligible for parole.

21. 30 days to appeal to the Court of Appeal.



**At Lautoka**

11 April, 2018



**Sunil Sharma**  
**Judge**

**Solicitors**

**Office of the Director of Public Prosecutions for the State.**

**Office of the Legal Aid Commission for the Accused.**