

IN THE HIGH COURT OF FIJI
AT LABASA
[CRIMINAL JURISDICTION]

Criminal Case No. HAC 41 of 2018

BETWEEN: **THE STATE**

AND: **ILAITIA VUSOLO**

Counsel: **Ms D Kumar for the State**
 Ms K Boseiwaqa for the Accused

Date of Hearing: **24 July 2018**
Date of Sentence: **26 July 2018**

SENTENCE

- [1] Ilaitia Vusolo, this is your second case of rape involving a child victim. On 25 June 2018, I sentenced you to 10 years' imprisonment for digital rape of a 16-year girl after you pleaded guilty to the charge at the first reasonable opportunity. The child victim in that case was your niece.
- [2] In the present case, you have pleaded guilty to two representative counts of digital rape, one count of penile rape and one count of act with intent to cause grievous harm. The victim is your step-daughter. You started sexually abusing the victim when she was about 10 years old. You justified your crime on the pretext of checking her virginity. You questioned the victim regarding her virginity by saying whether she had been with any men. You insisted on checking her virginity when the victim responded that she had not been with any men.
- [3] The first incident occurred in 2013 when the victim was in Year 5 and residing with you at your home in Bua. You woke the victim up from her sleep and inserted your finger into her vagina. You twisted your finger around her vagina to convince her that the act was necessary to check her virginity. You told the victim not to report the incident to anyone.

- [4] The victim remained quiet about the incident. She did not know how her mother would have reacted if she had reported the incident to her. She knew you were an authority figure in the family.
- [5] You used your authority and continued to sexually violate the victim by digitally penetrating her with your finger on the pretext of verifying her virginity. She kept quiet about the incidents.
- [6] In March 2018, you had sexual intercourse with the victim. On this occasion, when you woke her up from her sleep, she got scared and called out to her mother. You punched her on her ribs to subdue her and get her to consent to sexual intercourse. She sobbed quietly fearing further violence if she resisted while you raped her. She felt severe pain that night. She was so traumatised that she did not sleep.
- [7] Later on the same month, you approached the victim at night time and told her to remove her underwear. She complied out of fear. You told her that you were going to stitch her vulva to remind her that you were the first man she had sex with and that it would remain stitched until the day she got married. You forced the victim to hold a pestle for pounding garlic in her mouth to prevent her from screaming. The victim experienced severe pain when you ran the needle with cotton thread to stitch her genital. The victim did not report to anyone because she feared you.
- [8] The abuse came to light when the victim's cousins noticed a black cotton thread around the victim's genital when they went for a swim in the river near their home. The case was reported to police. The stiches were removed by a doctor on 4 May 2018.
- [9] In your police statement you made full admissions.
- [10] You are 32 years old and come from a poor background. By the time you were born, your parents had separated. Your father had no role in your upbringing. Your mother raised you with the assistance of her family. You left school after Year 8. When you became an adult you got married. You have three children of your own and you have

adopted three children from your spouse's earlier marriage. You farm and sell root crops for a living.

- [11] In assessing the seriousness of the offences, I take into account that both rape and act with intent to cause grievous harm are punishable by life imprisonment. The tariff for rape of a child is 10-16 years imprisonment (*Raj v State* [2014] FJSC 12; CAV0003.2014 (20 August 2014)). I repeat what I said when sentencing you in your earlier case of rape of another child.
- [12] Rape of a child is one of the most serious forms of sexual violence. Children are vulnerable members of our society. They are entitled to live their lives free from any form of physical or emotional abuse. They are entitled to trust their family members to protect them and keep them safe from sexual violence. When family members sexually abuse children, they should expect condign punishment to mark the society's outrage against sexual violence on children.
- [13] The tariff for act with intent to cause grievous harm is between 6 months imprisonment to 5 years imprisonment, and in cases where a weapon is used, the starting point should range from 2 years imprisonment to 5 years, depending on the nature of the weapon (*State v Mokubula* [2003] FJHC 164; HAA0052J.2003S (23 December 2003)). Further, the offence may be aggravated by the seriousness of the injuries, premeditation or planning, length and nature of the attack and vulnerability of the victim.
- [14] I take into account that you have entered an early guilty plea and relieved the victim the trauma of giving evidence in court. Your plea is consistent with your admissions to police. For your guilty plea I give you a discount of 3 years. At the time when you committed the offences, you had a clean criminal record. I treat your clean record as a mitigating factor. I give little weight to your personal and family circumstances as mitigating factors.
- [15] The aggravating factors are overwhelming. The victim was your step-daughter. She came to live with you when her mother married you. As her step-father you were responsible for her safety and security. But you used her as an object of your lust over

a prolonged period of time. You were deceptive in justifying your conduct in the pretext of being concerned about her virginity. The victim suffered humiliation and severe pain every time you violated her.

- [16] This is probably one of the worst cases of sexual violence on a child that has come before the courts in Fiji. Physical violence was inflicted on the child to get her to consent to sexual intercourse. The child was subjected to further humiliation and pain when you sew her genital with a needle and cotton thread. She suffered in silence for a long period of time. The physical wound may heal but the psychological trauma may remain for the rest of her life.
- [17] Your remand period had been taken into account in your earlier case.
- [18] Despite your early guilty plea, the Court is justified to impose a long prison sentence to reflect the seriousness of your actual conduct and to denounce and deter that conduct. On each count of rape, you are sentenced to 14 years' imprisonment, and for act with intent to cause grievous harm, you are sentenced to 4 years' imprisonment, to be served concurrently. The total effective sentence is 14 years' imprisonment, to be served concurrently with your pre-existing sentence. Making sentences cumulative will offend the totality principle. I fix a new non-parole period of 12 years.
- [19] The offence you committed constitutes domestic violence under the Domestic Violence Act. You are issued with a permanent Domestic Violence Restraining Order (DVRO) with standard no contact and no molestation conditions. The DVRO is necessary to protect the victim in future from you. The DVRO will remain active until you are living. If you breach the DVRO, you may be charged with the offence of breaching a DVRO.



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Hon. Mr. Justice Daniel Goundar

Solicitors:

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