

IN THE HIGH COURT OF FIJI AT SUVA

CASE NO: HAC. 220 of 2018

CASE NO: HAC. 221 of 2018

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[CRIMINAL JURISDICTION]

STATE

V

LUKE RAVUGA

Counsel : Ms. K. Semisi for State
Ms. L. Ratidara for Accused

Date of Sentence : 25th July 2019

[The names of the victims relevant to the aforementioned cases are suppressed. Accordingly, the victim in HAC220/2018 will be referred to as "SW"; victim in HAC221/2018 will be referred to as "CB"; victim in HAC222/2018 will be referred to as "VM"; and victim in HAC223/2018 will be referred to as "LV". No newspaper report or radio broadcast of the proceedings shall reveal the name, address or school, or include any particulars calculated to lead to the identification of the said victims.]

SENTENCE

1. Luke Ravuga, you pleaded guilty to the charges against you in HAC220/2018, HAC221/2018, HAC222/2018 and HAC223/2018 and you were convicted accordingly. Accordingly, you stand convicted of 06 counts of rape and 05 counts of sexual assault.

2. The charges in all four cases are sexual offences, but each case involves a different victim. Both prosecutor and your counsel requested this court to impose an aggregate sentence of imprisonment considering the charges in all four cases.
3. The offences you are convicted of form a series of offences of the same or similar character. Therefore, I consider it appropriate to accede to the aforementioned joint request and impose an aggregate term of imprisonment in relation to charges in all four cases above pursuant to the provisions of section 17 of the Sentencing and Penalties Act. Section 17 of the Sentencing and Penalties Act reads thus;

“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 may impose an aggregate sentence of imprisonment in respect of those offences that does not exceed the total effective period of imprisonment that could be imposed if the court had imposed a separate term of imprisonment for each of them.”

4. The charges you are convicted of in HAC 220 of 2018 are as follows;

FIRST COUNT

Statement of Offence

RAPE: contrary to section 207 (1) and (2) (b) and (3) of Crimes Act 2009.

Particulars of Offence

LUKE RAVUGA between the 1st day of January 2013 and the 31st day of December 2013 at Kadavu in the Southern Division had penetrated the vagina of **SW**, child under the age of 13 years, with his fingers.

SECOND COUNT

Statement of Offence

SEXUAL ASSAULT: contrary to section 210 (1) (a) of Crimes Act 2009.

Particulars of Offence

LUKE RAVUGA between the 1st day of January 2013 and the 31st day of December 2013 at Kadavu in the Southern Division unlawfully and indecently assaulted **SW**, a child under the age of 13 years.

THIRD COUNT

Statement of Offence

RAPE: contrary to section 207 (1) and (2) (b) and (3) of Crimes Act 2009.

Particulars of Offence

LUKE RAVUGA between the 1st day of January 2015 and the 31st day of December 2015 at Kadavu in the Southern Division had penetrated the vagina of **SW**, child under the age of 13 years, with his fingers.

FOURTH COUNT

Statement of Offence

SEXUAL ASSAULT: contrary to section 210 (1) (a) of Crimes Act 2009.

Particulars of Offence

LUKE RAVUGA between the 1st day of January 2015 and the 31st day of December 2015 at Kadavu in the Southern Division unlawfully and indecently assaulted **SW**, a child under the age of 13 years.

5. The charges you are convicted of in HAC 221 of 2018 are as follows;

FIRST COUNT

Statement of Offence

RAPE: contrary to section 207 (1) and (2) (a) and (3) of Crimes Act 2009.

Particulars of Offence

LUKE RAVUGA between the 1st day of January 2017 and the 31st day of December 2017 at Kadavu in the Southern Division had carnal knowledge of **CB**, child under the age of 13 years.

SECOND COUNT

Statement of Offence

RAPE: contrary to section 207 (1) and (2) (c) and (3) of Crimes Act 2009.

Particulars of Offence

LUKE RAVUGA between the 1st day of January 2017 and the 31st day of December 2017 at Kadavu in the Southern Division had penetrated the mouth of **CB**, child under the age of 13 years, with his penis.

THIRD COUNT

Statement of Offence

SEXUAL ASSAULT: contrary to section 210 (1) (a) of Crimes Act 2009.

Particulars of Offence

LUKE RAVUGA between the 1st day of January 2017 and the 31st day of December 2017 at Kadavu in the Southern Division had unlawfully and indecently assaulted **CB**, a child under the age of 13 years.

6. The charges you are convicted of in HAC 222 of 2018 are as follows;

FIRST COUNT

Statement of Offence

RAPE: contrary to section 207 (1) and (2) (a) and (3) of Crimes Act 2009.

Particulars of Offence

LUKE RAVUGA between the 1st day of January 2016 and the 31st day of December 2017 at Kadavu in the Southern Division had carnal knowledge of **VM**, child under the age of 13 years.

SECOND COUNT

Statement of Offence

SEXUAL ASSAULT: contrary to section 210 (1) (a) of Crimes Act 2009.

Particulars of Offence

LUKE RAVUGA between the 1st day of January 2016 and the 31st day of December 2017 at Kadavu in the Southern Division unlawfully and indecently assaulted **VM**, a child under the age of 13 years.

7. The charges you are convicted of in HAC 223 of 2018 are as follows;

FIRST COUNT

Statement of Offence

RAPE: contrary to section 207 (1) and (2) (b) and (3) of the Crimes Act 2009.

Particulars of Offence

LUKE RAVUGA between the 1st day of January 2016 and the 31st day of December 2017 at Kadavu in the Southern Division had penetrated

the vagina of LV, child under the age of 13 years, with his fingers.

SECOND COUNT

Statement of Offence

SEXUAL ASSAULT: contrary to section 210 (1) (a) of Crimes Act 2009.

Particulars of Offence

LUKE RAVUGA between the 1st day of January 2016 and the 31st day of December 2017 at Kadavu in the Southern Division had unlawfully and indecently assaulted **LV**, a child under the age of 13 years.

8. The summary of facts you admitted in relation to HAC220/2018 is as follows;

The complainant is one SW, 11 year old student of Nakaunakoro Village at Nakasaleka in Kadavu and the accused is one Luke Ravuga, 61 year old farmer of Nakanuakoro Village at Nakasaleka in Kadavu.

The complainant was born on the 16th May 2007. The complainant would have turned 12 years old in the year 2019.

The complainant refers to the accused as "Tutu Luke" and the accused considers the complainant as his granddaughter, however it is not clear how exactly they are related to each other.

In the year 2013, the complainant was attending Kindergarten and was about 6 years old, she had gone to the accused shop situated inside his house at Nakanuakoro Village at Nakasaleka in Kadavu to buy mosquito coil. The accused told the complainant to go inside his shop, which is inside his house and he was at home alone. He told the complainant to take off her clothes and she removed her t-shirt that she was wearing. The accused then started to touch the complainant's breast and then he squeezed her breasts. The complainant felt pain and then the accused kissed the complainant and started licking her stomach. The accused then sucked her breasts and inserted his finger into her vagina from inside her skirt. The complainant started crying and was afraid so the accused told her to stop crying and told her that he would give her some lollies and bongo. The accused then threatened her not to tell anyone what he had done to her or he would beat her up. The complainant then put her t-shirt on and left the accused house.

In the year 2015, the complainant was in class 2 and was about 8 years old. The complainant went to the accused shop inside his house and he told her to go inside his house. She stood inside the accused house and the accused went towards her, pulled her hand and took her into the room in his house. The accused then made the complainant lie on the bed and he undressed her. The accused then sucked the complainant's breasts and body and then pulled down her pants. The complainant felt the accused insert his finger into her vagina and he also kissed her. Once the accused finished doing this to the complainant, she wore her clothes and left the

accused house. The accused also threatened to beat the complainant if she told anyone about what he had done to her.

The head teacher for Nakasaleka District School, namely, Joji Voli received a call from the head Teacher of Kavala Bay Primary School namely, Tawake that his niece had informed him about what the accused had been doing to the young girls at Nakaunakoro Village. He interviewed two of the girls who also mentioned names of other girls. He then informed then informed the social welfare officer who then reported the matter to the police.

The child complainant was medically examined by Dr. Ravaele Inikasio at the Vunisea Hospital who noted that the hymen was intact but that this does not rule out the possibility of sexual assault and in addition to this the fact that a long period of time had lapsed from the date of incident and the medical examination.

The accused was later charged with two counts of Rape and two counts of Indecent Assault.

9. The summary of facts you admitted in relation to HAC221/2018 is as follows;

The complainant is one CB, 9 year old student of Lomanikoro Village at Nakasaleka in Kadavu and the accused is one Luke Ravuga, 61 year old farmer of Nakanuakoro Village at Nakasaleka in Kadavu.

The complainant was born on the 7th July 2008. The complainant would have turned 13 years old in the year 2019.

The complainant refers to the accused as "Tutu Luke" and the accused considers the complainant as his granddaughter, the accused is related to the complainant's father.

In 2017, the accused had called the complainant inside his house and gave her chewing gum and then he kissed her mouth and inserted his tongue into her mouth. She had gone to the accused shop to purchase sun bell tuna and potatoes and then he led her inside his room inside his house and told her to kneel down and suck his penis. The complainant refused to do this and he then told her that he would give her lollies and then the complainant sucked the accused penis. After the complainant had sucked the accused penis, he then gave her some lollies and then she left.

On the second occasion, in 2017 the complainant had gone to the accused shop with her younger sister to purchase noodles and then her younger sister went home and the accused called he and took her to his old house near his shop and he told her to lie down and he removed her panty and he lay on top of her.

The accused then inserted his penis into her vagina. When the accused finished doing this, he gave the complainant one dollar.

On the third occasion, in 2017, the accused had gone to the complainant's neighbour's house to ask for movies and the complainant had returned from the

wash room and saw the accused. He called the complainant and then he kissed her mouth and told her not to tell anyone.

The head teacher for Nakasaleka District School, namely, Joji Voli received a call from the Head Teacher of Kavala Bay Primary School namely, Tawake that his niece had informed him about what the accused had been doing to the young girls at Nakaunakoro Village. He interviewed two of the girls who also mentioned other girls. He informed then informed the social welfare officer who then reported the matter to the police. He was also informed of the complainant's name in this matter.

The child complainant was medically examined by Dr. Ravaele Inikasio at the Vunisea Hospital who noted that the hymen was partly perforated but the medical officer also noted that the complainant had admitted to inserting her fingers into her vagina but it was also noted that this does not rule out any history of sexual assault.

The accused was later charged with the offences of Rape, Indecent Assault and Indecently Annoying Any Person.

10. The summary of facts you admitted in relation to HAC222/2018 is as follows;

The complainant is one VM, 8 year old student of Nakaunakoro Village at Nakasaleka in Kadavu and the accused is one Luke Ravuga, 61 year old farmer of Nakanuakoro Village at Nakasaleka in Kadavu.

The complainant refers to the accused as "Tutu Luke" and the accused considers the complainant as his granddaughter, the accused claims that he is somehow related to the complainant's father. According to the accused, he is complainant's grandfather's brother, hence, the complainant's granduncle.

In 2017, the accused had pulled down the complainant's pantie when she went to his shop to purchase flour. The accused had called the complainant inside the shop which is also beside his house and closed the door. The accused then went towards the complainant and touched her breast and squeezed her breasts hard and this was painful to the complainant. After doing this, the accused pulled down the complainant's skirt and lay on top of the complainant and inserted his penis into her vagina and then he ejaculated. The complainant wanted to shout out but the accused told her not to shout.

On the second occasion, in 2017, the complainant had gone to the accused shop to buy bongo and when she went inside the shop the accused told her to remove her clothes and she was frightened. The accused then placed her on the bed and sucked her breasts and then he inserted his penis into her vagina. This was painful to the complainant and then the accused told her not to tell anyone about what he had done to her. Once the accused finished doing this to the complainant he gave her bongo and lollies and she left.

The head teacher for Nakasaleka District School, namely, Joji Voli received a call from the head Teacher of Kavala Bay Primary School namely, Tawake that his niece had informed him about what the accused had been doing to the young girls at Nakaunakoro Village. He interviewed two of the girls who also mentioned other girls. He then informed then informed the social welfare officer who then reported the matter to the police. He was also informed of the complainant's name in this matter.

The accused was arrested and interviewed under caution wherein he stated he had inserted his penis into the complainant's vagina and also squeezed her breasts but he denied licking the complainant's vagina.

The child complainant was medically examined by Dr. Laisa Cabenasiga Masei at the Vunisea Rural Hospital who noted that the hymen was perforated and vagina canal was slightly red with no discharge, laceration and bruise noted.

The accused was later charged with the offences of Rape and Sexual Assault.

11. The summary of facts you admitted in relation to HAC223/2018 is as follows;

The complainant is one LV, 11 year old student of Nakaunakoro Village at Nakasaleka in Kadavu and the accused is one Luke Ravuga, 61 year old farmer of Nakanuakoro Village at Nakasaleka in Kadavu.

The complainant was born on the 7th July 2007 and would have been 12 years old in 2019.

The complainant refers to the accused as "Tutu Luke" and the accused considers knows of the complainant but they don't seem to be related but were staying in the same village at the material time of offending.

In 2016, the complainant had gone to buy from the accused shop when he pulled her and squeezed her breasts and then he inserted his fingers into her vagina. On another occasion in 2016, the accused had poked her vagina beside the creek at the village while she was swimming. On the third occasion, in 2016, the complainant had gone again to the accused shop and then he called her to an empty house beside his shop and inserted his right finger inside her vagina. The complainant was crying and then pulled up her pants and ran outside.

The head teacher for Nakasaleka District School, namely, Joji Voli received a call from the head Teacher of Kavala Bay Primary School namely, Tawake that his niece had informed him about what the accused had been doing to the young girls at Nakaunakoro Village. He interviewed two of the girls who also mentioned other girls. He informed then informed the social welfare officer who then reported the matter to the police. He was also informed of the complainant's name in this matter.

The child complainant was medically examined by Dr. Laisa Cabenasiga Masei at the Vunisea Rural Hospital who noted that the hymen was intact with no lacerations and bruises and the medical officer noted that there were no definite

physical findings observed but history conveyed by the complainant was noted and this did not rule out sexual assault.

The accused was later charged with the offences of Rape and Indecent Assault.

12. The maximum sentence for the offence of rape under section 207(1) of the Crimes Act is imprisonment for life. In the case of *Aitcheson v State* [[2018] FJSC 29; CAV0012.2018 (2 November 2018), the Supreme Court held that the sentencing tariff for rape of a child should be a term of imprisonment between 11 to 20 years.
13. The offence of sexual assault under section 210(1) of the Crimes Act carries a maximum sentence of 10 years imprisonment. The sentencing tariff for this offence is an imprisonment term between 2 to 8 years [*State v Laca* [2012] FJHC 1414; HAC 252 of 2011 (14 November 2012)].
14. Your previous convictions report includes a conviction for sexual assault in 2018 and for one count of indecent assault and three counts of indecently annoying a person in 2019. The victim in the case you were convicted for indecent assault in 2019 (CF25/19) was 12 years old. You had touched her breast when she came to buy food from your canteen. In the same case you were convicted for indecently annoying a person for exposing your genitals to the same victim on two other occasions. The victim in the other case you were convicted in 2019 (CF22/19) for indecently annoying a person was 11 years old. You had exposed your genitals to her.
15. Having regard to your aforementioned previous convictions for sexual offences and your convictions for the 06 counts of rape and 05 counts of sexual assault in the cases before me which are sexual offences involving 04 girls below the age of 10 years, and for the reason that I am satisfied that you constitute a threat to the community, by virtue of the provisions of section 11 of the Sentencing and

Penalties Act, I hereby determine that you, Luke Ravuga is a habitual offender for the purposes of Part III of the said Act.

16. The victim in HAC220/2018 was around 06 years old when you first raped her by inserting your finger inside her vagina. You again raped her in the same manner when she was around 8 years old. On both occasions you have sucked her breasts. You are about 50 years older than the victim. The victim calls you "Tutu Luke". You consider her as a granddaughter.
17. The victim in HAC221/2018 was around 09 years old when you raped her by inserting your penis inside her mouth and again by inserting your penis inside her vagina. You had also sexually assaulted her by inserting your tongue inside her mouth on one occasion and then by kissing her on her mouth in another occasion during the same year. You are about 51 years older than the victim. The victim calls you "Tutu Luke". According to you, she is related to you and you consider her as a granddaughter.
18. The victim in HAC222/2018 was around 07 years old when you raped her by inserting your penis inside her vagina. You had also squeezed her breasts. You are 53 years older than the victim. The victim calls you "Tutu Luke". You have admitted that you are related to the victim as you are her grandfather's brother.
19. The victim in HAC223/2018 was around 09 years old when you raped her by inserting your finger inside her vagina. You had also sexually assaulted her by squeezing her breasts. Though the victim is not related to you, she calls you "Tutu Luke". You are 50 years older than the victim.
20. Taking into account the fact that you have raped and sexually assaulted 04 girls below the age of 10 years and the number of offences, I would select 16 years as the starting point of your aggregate sentence.

21. You were operating a shop in the village. You preyed upon the four victims when they came to your shop to purchase groceries. With regard to the first 03 cases, you have agreed that the victims are related to you. Even though the victim in the fourth case is not related, she had been calling you 'grandfather' and it appears that you were in a position of trust. Therefore, there is a serious breach of trust in relation to all four victims. The age difference between you and the victims ranges from 50 to 53 years. You have exploited the vulnerability and naivety of the four victims. I consider these as the aggravating factors in this case. Given these factors I would add 16 years to your sentence. Now your sentence is an imprisonment term of 32 years.
22. Your counsel argued that you should be considered as a person with no previous convictions because there are no applicable previous convictions at the time you committed the offences you are being dealt with in the four cases before me. I would agree with your counsel. Your counsel also says that you are remorseful. I would deduct 02 years in view of these factors which I would regard as mitigating factors in this case. Now your sentence is an imprisonment term of 30 years.
23. You have entered an early guilty plea. You have thereby accepted responsibility for your actions. Not only have you saved the court's time, you have also prevented the four victims from having to give evidence before this court. In view of your guilty plea, I would grant you a discount of one-third.
24. Accordingly, I hereby sentence you to a term of 20 years imprisonment. I order that you are not eligible to be released on parole until you serve 18 years of your sentence in terms of section 18(1) of the Sentencing and Penalties Act.
25. It is submitted that you were in custody in view of the four cases since 16/05/2018. However, you are a serving prisoner since 24/08/18. The 03 months you were in custody prior to that date has been taken into account when

you were sentenced on 24/08/18. Therefore, no adjustment will be made in view of time spent in custody.

26. You shall serve this sentence concurrently with the remaining uncompleted sentences of imprisonment. Accordingly, the remaining term of imprisonment would be 20 years. The remaining non-parole term would be 18 years.

27. Thirty (30) days to appeal to the Court of Appeal.




Vincent S. Perera
JUDGE

Solicitors;

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