

IN THE HIGH COURT OF FIJI

AT LABASA

CRIMINAL JURISDICTION

Criminal Case No: HAC 41 of 2019

BETWEEN : THE STATE

AND : JOSAI TAGUDU

Counsel: Ms A Vavadakua for the State
Ms K Boseiwaqa and Ms R Raj for the Accused

Date of Hearing: 20 - 21 July 2020

Date of Summing Up: 21 July 2020

Date of Judgment: 21 July 2020

Date of Sentence: 24 July 2020

SENTENCE

1. The offender was found guilty of digital penetration of a 6-year old girl's genitalia using his finger while the child was asleep in her bedroom. The incident occurred on 5 July 2019 at Vunivau, Labasa. The offender was a guest in the child's home and staying overnight with her family. There is no immediate relationship between the child and the offender, but he was like her grandfather.
2. The offender is 64 years old. He is from Keka village, Cakaudrove. He was married but divorced in 1970. He remained single after his divorce. He has no children. He sustained himself through farming.
3. The maximum penalty for digital rape is life imprisonment. The actual sentence will depend on both the objective seriousness of the offence and the seriousness of the actual conduct of the offender. The victim's family trusted the offender to allow him

to sleep overnight at their home. The victim was extremely vulnerable due to her tender age. The offender violated her after he returned from a grog session and saw all the family members were asleep. The victim woke up when she felt the penetration. She was frightened and disturbed. She went and slept beside another adult female member of her family. She was being raised by her grandparents who were not present at home on the night of the incident.

4. The only mitigating factor is that the offender has previous good character. His advanced age, medical condition and personal circumstances are not mitigating factors. He has expressed little remorse for his crime.
5. A female child was sexually violated by an elderly male relative in the security of her own home. Sexual abuse of children by their family members is too prevalent in our community. The courts duty is to protect our children and to denounce sexual abuse of our children and deter others from engaging in such conduct.
6. After taking all these matters into account and the applicable tariff, I sentence the offender to 14 years' imprisonment. The offender has already served 1 year in custody on remand. The remaining term to serve is 13 years.
7. A non-parole period of 10 years is fixed. The offender will be subject of a DVRO with no contact with the victim and with non-molestation conditions for the rest of his life.



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Hon. Mr Justice Daniel Goundar

Solicitors:

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

