

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

CRIMINAL CASE NO. HAC 166 OF 2021

BETWEEN : STATE

AND : TOMASI QILIA

Counsel : Ms U Tamanikaiyaroi for the State
Mr W Navuni with Ms A Sharma for the Accused

Date of Hearing : 24 – 25 April 2023

Date of Judgment : 26 April 2023


Date of Sentence : 28 April 2023

SENTENCE

- [1] Tomasi Qilia, you were tried on a charge of rape but convicted of the lesser offence of sexual assault.
- [2] The facts are that sometime in 2021 you touched the genitalia area of a 4 year old girl. The victim was your relative and lived next to your house in a settlement in Tamavua. The incident occurred in your home. You invited the complainant inside your house, committed the indecent act and gave her candies so that she does not complain to anyone.
- [3] At the time you committed the crime you were 59 years old. You have spent criminal convictions for burglary and theft which are about 20 years old. I give you credit for your clear record in the last twenty years.

- [4] However, the current offending is serious. The maximum penalty for sexual assault is 10 years imprisonment and the tariff is from 2-8 years imprisonment (*State v Laca Cr case No HAC252 of 2011*).
- [5] The aggravating factors are that the victim was extremely vulnerable due to her tender age and you grossly breached her trust by committing sexual assault on her. She considered you as her grandfather.
- [6] It has not been proved beyond reasonable doubt that you made contact with the naked genitalia of the complainant. I pitch the seriousness of your conduct to fall in category 2 (iii) of Laca's case.
- [7] I pick 3 years imprisonment as my starting point. I add 2 years for the aggravating factors and deduct 1 year for the mitigating factors.
- [8] Tomasi Qilia, you are sentenced to 4 years imprisonment.
- [9] You have already spent 4 months in custody on remand. This period is taken as sentence already served. The remaining period for you to serve is 3 years and 8 months imprisonment with a non-parole period of 2 years and 6 months.
- [10] The DVRO is made permanent.




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Hon. Mr Justice Daniel Goundar

Solicitors:

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