

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Crim. Case No: HAC 135 of 2022

STATE

vs.

JOSEFATA KOROI

Counsel:	Mr. M. Vosawale for the State Ms. G. Henao for Accused
Dates of Hearing:	11 th and 12 th September 2023
Date of Closing Submission:	15 th September 2023
Date of Judgment:	26 th September 2023
Date of Sentence:	29 th September 2023

SENTENCE

1. Mr. Josefata Koroi, on the 26th of September 2023, the Court found you guilty of one count of Indecently Insulting or Annoying any Person, contrary to Section 213 (1) (b) of the Crimes Act, two counts of Sexual Assault, contrary to Section 210 (1) (a) of the Crimes Act and one count of Rape, contrary to Section 207 (1) (2) (b) of the Crimes Act and convict of the same accordingly.
2. It was proved during the hearing that you showed your penis to the Complainant, your step-daughter-in-law, on the 25th of December 2021. On the 1st of January 2022, you indecently

and unlawfully kissed her lips and sucked her breast. During the same transaction, you penetrated her vagina with your fingers without her consent.

3. Rape is one of the most humiliating and distressing crimes. It violates the physical self of a person and destroys the personal dignity and self-autonomy of a person. Therefore, Rape is a serious offence.
4. The primary purpose of this sentence is founded on the principle of deterrence. It is the responsibility of the Court to deter offenders or other persons from committing offences of the same or similar nature and protect the community from offenders of this nature.
5. The maximum sentence for Rape is life imprisonment. The tariff for the offence of Rape involving an adult victim ranges from seven (07) years to fifteen (15) years of imprisonment period. The maximum sentence for Sexual Assault is ten years imprisonment, and one-year imprisonment is the maximum sentence for Indecently Insulting or annoying any person.
6. These four offences are founded on the same series of offences. Therefore, the Court finds it appropriate to impose an aggregate sentence according to Section 17 of the Sentencing and Penalties Act.
7. The Victim Impact Report details the extent of the emotional and psychological effect this offence has caused the Complainant. It has adversely changed the Complainant into a withdrawn, scared person. In view of these facts, the level of harm in this offence is significantly high.
8. You had forcefully pulled her when she came to the kitchen in response to your call. The Complainant said she couldn't escape because you were heavy and oversized. You waited until your wife left home to find an opportunity to unleash this disgraceful sexual assault on your step-daughter-in-law. Considering these facts, I find the level of culpability in this offence is high.

9. Considering the serious nature of these offences, the purpose of the sentence, the level of harm and the level of culpability, I select nine years as the starting point.
10. You have breached the trust the Complainant had in you as the step-father-in-law. I consider this ground as an aggravating factor in this offence.
11. In her mitigation submissions, the learned Counsel for the Defence submitted your personal and family background, which I do not find any mitigatory value.
12. You are a first offender. There is no evidence or information before this Court to consider your general reputation in society and also no information about any significant contribution that you have made to the community. Considering these reasons, you are entitled to a meagre discount for your previous character.
13. In view of the reasons discussed above, I increase further two (2) years for the aggravating factors to reach eleven (11) years. Because of your previous character, I reduced one (01) year. Accordingly, I reach ten (10) years of imprisonment as your final sentence.
14. Considering the seriousness of this crime, the purpose of this sentence, your age and the opportunity for rehabilitation, I find eight (08) years of the non-parole period would serve the purpose of this sentence. Hence, you are not eligible for parole for eight (08) years pursuant to Section 18 (1) of the Sentencing and Penalties Act.


Head Sentence

15. Accordingly, I sentence you to **ten (10) years** imprisonment as an aggregate sentence for one count of Indecently Insulting or Annoying any Person, contrary to Section 213 (1) (b) of the Crimes Act, two counts of Sexual Assault, contrary to Section 210 (1) (a) of the Crimes Act and one count of Rape, contrary to Section 207 (1) (2) (b) of the Crimes Act Moreover, you are not entitled to any parole for eight (08) years pursuant to Section 18 (1) of the Sentencing and Penalties Act.

Actual Period of the Sentence

16. You had been in remand custody for this case for nearly sixteen (16) days. Accordingly, I consider one (01) month as a period of imprisonment you have already served.
17. Accordingly, the actual sentencing period is nine (09) years and eleven (11) months imprisonment with a non-parole period of seven (07) years and eleven (11) months.
18. Since this incident involves domestic violence, I am satisfied that there are sufficient grounds to consider making an order under the Domestic Violence Act. I accordingly make a Permanent Domestic Violence Restraining Order against you with standard non-molestation conditions pursuant to sections 24 and 28 of the Domestic Violence Act. The above Domestic Violence Restraining Order will be in force until this Court or any other competent Court verifies or suspends it. Furthermore, if you breach this restraining order, you will be charged and prosecuted for an offence under section 77 of the Domestic Violence Act.
19. Thirty (30) days to appeal to the Fiji Court of Appeal.




.....
Hon. Mr. Justice R. D. R. T. Rajasinghe

At Suva

29th September 2023

Solicitors

Office of the Director of Public Prosecutions for the State.

Office of the Legal Aid Commission for the Accused.