

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Crim. Case No: HAC 134 of 2023

STATE

vs.

EPELI OLE RAVUCI

Counsel:	Mr. J. V. Singh for the State Mr. S. Raikanikoda for Accused
Dates of Hearing:	02 nd and 03 rd September 2024
Date of Closing Submission:	18 th September 2024
Date of Judgment:	27 th September 2024
Date of Sentence:	04 th October 2024

SENTENCE

1. Mr. Epeli Ole Ravuci, on the 27th of September 2024, this Court found you guilty of one count of Indecent Assault, contrary to Section 212 (1) of the Crimes Act 2009, which carries a maximum sentence of five years imprisonment, three counts of Rape, contrary to Section 207 (1) and (2) (b) of the Crimes Act, which carries a maximum sentence of life

imprisonment and one count of Sexual Assault, contrary to Section 210 (1) (a) of the Crimes Act, which carries a maximum sentence of ten years imprisonment.

2. It was proved during the hearing that you had penetrated the vagina of the Complainant with your fingers and tongue without the consent of the Complainant on several occasions in 2017 and 2018. Moreover, you had indecently assaulted her by indecently touching her thighs and then sexually assaulted her by touching her vagina indecently. You were the Complainant's stepfather, and the Complainant was thirteen years old in 2017.
3. This is a case of sexual exploitation of a young child by a close family member within her dwelling environment. Sexual exploitation of children within their domestic environment has become a social menace. The social enigma of abusing children for sexual gratification needs to be addressed promptly and effectively. Therefore, I find the objective seriousness of these crimes extremely high.
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. A harsh and long custodial sentence is inevitable for offences of this nature to demonstrate the gravity of the offence and reflect that civilized society denounces such crimes without any reservation.
5. These five offences are founded on the same series of offences with similar characters. Therefore, imposing an aggregate sentence pursuant to Section 17 of the Sentencing and Penalties Act is appropriate.
6. The maximum penalty for Rape is life imprisonment. Gates CJ in **Aitcheson v State ([2018] FJSC 29; CAV0012.2018 (2nd of November 2018)** held that the tariff for the Rape of a child is between 11 - 20 years' imprisonment period.

7. The maximum penalty for Sexual Assault is ten years imprisonment. Justice Madigan in State v Epeli Ratabacaca Laca - Sentence [2012] FJHC 1414; HAC252.2011 (the 14th of November 2012) has expounded the tariff for the offence of Sexual Assault as between 2 years to 8 years imprisonment. The applicable tariff for Indecent Assault ranges from 12 months to 4 years' imprisonment.
8. Rape is a physical invasion committed on the victim under a coercive circumstance. Therefore, the degree of invasion of the victim's bodily integrity and sexual autonomy is an indispensable factor in determining the gravity and impact of the crime on the victim.
9. The Victim Impact Report states this crime has adversely affected the Complainant emotionally and psychologically. According to the Victim Impact Report, this crime has shattered her self-confidence. Therefore, I find the level of harm in this offence is significantly high.
10. You had meticulously executed this crime when the Complainant was alone and/or unable to escape or seek assistance. You used your position and authority in the family to continuously abuse her sexually so as to satisfy your reprehensible sexual desire. You provided her needs as a father but covertly asked, in return, surrogated sexual gratification from her, which I find as an emotional extortion, using her vulnerability and young age. You were initially pardoned and forgiven by the Complainant and her mother, yet you tried to unleash your sexual assault on her when you found an opportunity. Considering these reasons, I find the level of culpability is exceedingly high in this crime, requiring a starting point closer to the higher end of the tariff range.
11. Considering the serious nature of these offences, the purpose of the sentence, the level of harm and the level of culpability, I select 15 years as the starting point.
12. The Complainant is your stepdaughter. You had abused that trust and confidence she had in you as her stepfather. The age difference between you and the Complainant is substantially

high. You have exposed this child Complainant to sexual activities by committing this crime at a very young age. I consider these reasons to be aggravating factors in this offence.

13. In his mitigation submissions, the learned Counsel for the Defence submitted your personal and family background, which has no mitigatory value.
14. The learned Counsel for the Defence submitted that you are a first offender; hence, you are entitled to a substantive discount. The Court heard you were a Primary School teacher for 30 years in Fiji. I find that your previous good character, especially since you have not been tainted with any prior conviction for an offence of a sexual nature, would have allowed you to freely move around in the family, including the children, without any suspicion of risk. The family had perceived you as a man of good character, not a child paedophile, and allowed you to be free with young female family members. Moreover, there is no suggestion that you have significantly contributed to the community or have any reputation in the community as per Section 5 of the Sentencing and Penalties Act. Therefore, I do not find your previous good character has any significant mitigatory value. Hence, you are only entitled to a meagre discount for your previous good character.
15. In view of the reasons discussed above, I increased further three (3) years for the aggravating factors to reach eighteen (18) years. Because of your previous character, I reduced one (01) year. Accordingly, I have reached seventeen (17) years of imprisonment, which is your final sentence.
16. Having considered the seriousness of this crime, the purpose of this sentence, and opportunities for rehabilitation, I find fifteen (15) years of non-parole period would serve the purpose of this sentence. Hence, you are not eligible for parole for fifteen (15) years under Section 18 (1) of the Sentencing and Penalties Act.

Head Sentence


17. Accordingly, I sentence you to a period of seventeen (17) years imprisonment as an aggregate sentence for one count of Indecent Assault, contrary to Section 212 (1) of the Crimes Act 2009, three counts of Rape, contrary to Section 207 (1) and (2) (b) of the Crimes Act, and one count of Sexual Assault, contrary to Section 210 (1) (a) of the Crimes Act as charged in the Information. Moreover, you are not entitled to parole for fifteen (15) years according to Section 18 (1) of the Sentencing and Penalties Act.

Actual Period of the Sentence

18. You were in remand custody for this case for nearly thirty-eight (38) days before the sentence, as the Court did not grant you bail. Pursuant to Section 24 of the Sentencing and Penalties Act, I consider two (02) months as a period of imprisonment you have already served.
19. Accordingly, the actual sentencing period is **sixteen (16) years and ten (10) months** imprisonment with a non-parole period of **fourteen (14) years and ten (10) months**.
20. 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 and no contact 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, is varied or suspended. Furthermore, if you breach this restraining order, you will be charged and prosecuted for an offence under Section 77 of the Domestic Violence Act.

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




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

At Suva

04th October 2024

Solicitors

Office of the Director of Public Prosecutions for the State.

Raikanikoda & Associates for the Accused.