

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**CRIMINAL JURISDICTION**

**Crim. Case No: HAC 351 of 2023**

**STATE**

vs.

**MV**

**Counsel:** Ms. S. Bibi for the State  
Ms. R. Nabainivalu with Ms. N. Pratap for Accused

**Dates of Hearing:** 24<sup>th</sup> and 25<sup>th</sup> March 2025

**Date of Closing Submission:** 11<sup>th</sup> April 2025

**Date of Judgment:** 19<sup>th</sup> May 2025

**Date of Sentence:** 24<sup>th</sup> June 2025

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**SENTENCE**

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1. The names of the Complainant and the Accused are suppressed for the recording and publication purposes.
2. This Court found you guilty of one count of Rape, contrary to Section 207 (1) (2) (a) and (3) 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.

3. It was proved during the hearing that you had penetrated the vagina of the Complainant with your penis in 2018. The Complainant was an 8-year-old child at that time. In 2022, you again approached the Complainant and unlawfully and indecently touched her breasts. The Complainant is your stepdaughter.
4. 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 must be addressed promptly and effectively. Consequently, I consider the objective seriousness of these crimes to be exceedingly high.
5. The primary purpose of this sentence is based on the principle of deterrence. It is the Court's responsibility to deter offenders and others from committing offences of the same or similar nature, thus protecting the community from such individuals. A severe and lengthy custodial sentence is essential for these offences to convey the seriousness of the crime and reflect that a civilized society unequivocally denounces such acts.
6. These two offences are based on the same series of offences with similar characteristics. Therefore, imposing an aggregate sentence under Section 17 of the Sentencing and Penalties Act is appropriate.
7. 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 and 20 years' imprisonment.
8. The maximum penalty for Sexual Assault is ten years' imprisonment. Justice Madigan in **State v Epeli Ratabacaca Laca - Sentence [2012] FJHC 1414; HAC252.2011 (14 November 2012)** has expounded the tariff for the offence of Sexual Assault as being between 2 years and 8 years' imprisonment.

9. Rape is a physical invasion perpetrated against the victim under coercive circumstances. Therefore, the extent of the invasion of the victim's bodily integrity and sexual autonomy is a crucial factor in determining the severity and impact of the crime on the victim.
10. 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.
11. You committed this crime while the Complainant was sleeping with her younger sibling. Her mother was not at home. You found an opportunity to assault the Complainant sexually and then executed your disgraceful intention without any regard for the young Complainant so as to satisfy your reprehensible sexual desire. I find the level of culpability is high in this crime.
12. Considering the serious nature of this offence, the purpose of the sentence, and the level of culpability, I select 13 years as the starting point.
13. The Complainant is your stepdaughter. You have abused the trust and confidence she placed in you as her stepfather. The age difference between you and the Complainant is significantly large. 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.
14. In her mitigation submissions, the Learned Counsel for the Defence presented your personal and family background, which holds no mitigatory value.
15. The Learned Counsel for the Defence submitted that you are a first offender; hence, you are entitled to a substantive discount. There is no suggestion that you have significantly contributed to the community or possess any reputation in the community as per Section 5 of the Sentencing and Penalties Act. Therefore, I do not find your previous good character

to have any significant mitigatory value. Consequently, you are only entitled to a meagre discount for your previous good character.

16. In light of the reasons discussed above, I further increased the sentence by three years due to the aggravating factors, bringing the total to sixteen years. However, considering your previous character, I reduced the sentence by one year. Consequently, I determined that your final sentence is fifteen years of imprisonment.
17. Having considered the seriousness of this crime, the purpose of this sentence, and opportunities for rehabilitation, I find that thirteen (13) 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.

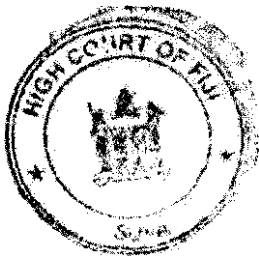
#### **Head Sentence**

18. Accordingly, I sentence you to a period of fifteen (15) years' imprisonment as an aggregate sentence for one count of Rape, contrary to Section 207 (1) (2) (a) and (3) 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 thirteen (13) years, according to Section 18 (1) of the Sentencing and Penalties Act.

#### **Actual Period of the Sentence**

19. You were in remand custody for this case for over five months prior to the sentence, as the Court did not grant you bail. Under Section 24 of the Sentencing and Penalties Act, I consider six months as the period of imprisonment you have already served.
20. Accordingly, the actual sentencing period is **fourteen (14) years and six (06) months** of imprisonment, with a non-parole period of **twelve (12) years and six (06) months**.

21. Since this incident involves domestic violence, I am satisfied that there are sufficient grounds to consider making an order under the Domestic Violence Act. Therefore, I issue a Permanent Domestic Violence Restraining Order against you, including standard non-molestation and no contact conditions pursuant to Sections 24 and 28 of the Domestic Violence Act. The Domestic Violence Restraining Order will remain in force until this Court, or any other competent Court, varies 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.
22. Thirty (30) days to appeal to the Fiji Court of Appeal.



A handwritten signature in black ink, consisting of stylized initials and a long horizontal stroke.

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

**At Suva**

24<sup>th</sup> June 2025

**Solicitors**

Office of the Director of Public Prosecutions for the State.

Office of the Legal Aid Commission for the Accused.