

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. HAC 52 of 2018

STATE

V

PETERO ULUILAKEBA

Counsels: Mrs. D. Kumar for the State
Accused in person

Dates of Hearing: 26 July and 03 August 2018

Date of Sentence: 09 August 2018

SENTENCE

1. The accused was tried in the Magistrates Court at Taveuni on one representative count of rape of his step daughter.
2. He was found guilty and convicted by the learned Magistrate who was of the view that the likely sentence would exceed his jurisdiction. In view of that he transferred the case to this Court for sentencing pursuant to section 19(1) of the Criminal Procedure Act 2009.

Facts

3. The victim (who I shall refer to as "CD") lived in Taveuni with her mother and step father (the accused). She told the Court that the accused started sexually abusing her from the time she was in Class 1 and when she was 8 or 9 years old he started having full penetrative sex with her. This continued until she was in Form 6. He did that to her probably twice a month and in some years it would be more than 50 times. He told CD that he was doing this because her mother (his wife) could not satisfy his sexual demands. He threatened to kill her if she told anyone. She would cry when he was doing this and would beg him to stop. On a few occasions he had a knife with him and once he punched her. Their house was at the end of the village near the bush and he would take her into the bush to rape her. She never told anybody because of his threat to kill her. It was only in 2015 that CD had the courage to report the matter after she had joined a Women's Movement.
4. The maximum penalty for rape is life imprisonment and the Supreme Court has held that the rape of a child should attract a term of imprisonment of between 10 to 16 years (**Anand Abhay Raj** CAV 003 of 2014).
5. Although there is evidence of multiple rapes in this case, the Court can only sentence for one rape as the charge is a representative charge.
6. The accused, representing himself has placed before the Court two sets of handwritten notes in mitigation. In the first set he points out what he claims are deficiencies in the evidence of CD.

7. In the second set he pleads total remorse and regret for the affair.
8. He is 63 years old and his 3 months spent in remand has taught him "many life turning point lessons". He states that he is the sole breadwinner and he feels for his children and grandchildren. He asks that the Court have mercy for an elderly man and that he be given a chance to "improve my wrong decision making" and be reunited with his family.
9. The State prays that the Court takes into account a Victim Impact Report as well as the breach of trust and the use of violence in some of the rapes.
10. The Victim impact report is very saddening. CD, now aged 37, speaks of the trauma and depression that she still experiences as a result of this prolonged abuse.
11. She is still single because she finds it very difficult to relate to and trust men.
12. She is living every day with anger and fear.
13. The victim's impact report is hardly surprising. To sexually assault and rape a child frequently over a period of ten years is unthinkably abhorrent. Society can never condone such execrable conduct and it would expect very harsh punishment in deterrence of such offending.
14. The Court takes a starting point of 12 years for the offence and in recognition of the gross breach of trust and the use of violence (knife and punching) would add 5 years to that term bringing that interim total to 17 years. One year is deducted in

recognition of his clear record and the time he spent in custody awaiting trial meaning that the accused is sentenced to a term of imprisonment of **16 years**. He is to serve a minimum of 13 years before he is eligible for parole.

Orders

15. 1. Sentenced to 16 years imprisonment.
2. To serve 13 years before being eligible for parole.



P. K. Madigan
Judge



At Labasa
09 August 2018