

DIRECTOR OF PUBLIC PROSECUTIONS

v

RATU WILLIAM BOSE

JUDGE: HIS HONOUR JUDGE WRAIGHT
WHERE HELD: Melbourne
DATE OF HEARING: Trial one: 25 Feb - 4 March 2019
Trial two: 25 March – 28 March 2019
Plea: 18 July 2019

DATE OF SENTENCE: 1 August 2019
CASE MAY BE CITED AS: DPP v Bose
MEDIUM NEUTRAL CITATION: [2019] VCC 1170

REASONS FOR SENTENCE

Subject: CRIMINAL LAW
Catchwords: Guilty verdicts in two trials – plea of guilty to a third indictment – one charge of common assault – three charges of rape – one charge of damaging property – one charge of theft – one charge of using a carriage service to cause offence – two victims – offender met both victims on the Tinder dating application – serious sexual offender – discretionary registration applies pursuant to s 11 of the *Sex Offenders Registration Act 2004*.
Legislation Cited: *Crimes Act 1958 (Vic)*, *Crimes Amendment (Sexual Offences and Other Matters) Act 2014 (Vic)*, *Criminal Code Act 1995 (Cth)*, *Bail Act 1977 (Vic)*, *Sentencing Act 1991 (Vic)*, *Sex Offenders Registration Act 2004 (Vic)*
Cases Cited: *Cheung v The Queen* [2001] 209 CLR 1, *DPP v Macarthur* [2019] VSCA 71, *Bowden v The Queen* [2013] VSCA 382
Sentence: Total effective sentence of 12 years and 6 months imprisonment with a non-parole period of 9 years imprisonment.

APPEARANCES:

For the DPP

For the Accused

Counsel

Ms A Hassan

Mr J Williams
Ms S Joosten

Solicitors

Office of Public Prosecutions

Victoria Legal Aid

HIS HONOUR:

Introduction

1. Ratu William Bose, on Indictment G11066728.2 (the first indictment), you have been found guilty of one charge of common assault, contrary to Common Law which carries a maximum penalty of five years imprisonment (Charge 2) and two charges of rape contrary to s 38(1) of the *Crimes Act 1958*, as amended by the *Crimes Amendment (Sexual Offences and Other Matters) Act 2014* which carries a maximum penalty of 25 years imprisonment (Charges 3 and 4).
2. On Indictment H10194047 (the second indictment), you have been found guilty of one charge of rape contrary to s 38(1) of the *Crimes Act 1958*, as amended by the *Crimes Amendment (Sexual Offences and Other Matters) Act 2014* which carries a maximum penalty of 25 years imprisonment (Charge 2).
3. On Indictment C1811830.1 (the plea indictment), you have pleaded guilty to one charge of damaging property contrary to s 197(1) of the *Crimes Act 1958* which carries a maximum penalty of 10 years imprisonment (Charge 1), one charge of theft contrary to s 74(1) of the *Crimes Act 1958* which carries a maximum penalty of 10 years imprisonment (Charge 2) and one charge of using a carriage service to cause offence contrary to s 474.17(1) of the *Criminal Code Act 1995 (Cth)* which carries a maximum penalty of three years imprisonment (Charge 3).
4. You have also pleaded guilty to related summary charges as follows:
 - Charge 1 – Breach of bail condition by failing to report on four occasions being 14, 16, 18 and 21 November 2016 contrary to s 30A(1) of the *Bail Act 1977* which carries a maximum penalty of three months' imprisonment or 30 penalty units;
 - Charge 5 – Breach of bail condition by failing to reside at your bail address between 5 November 2016 and 23 January 2017, contrary to s 30A(1) of the *Bail Act 1977* which carries a maximum penalty of three months' imprisonment or 30 penalty units; and

- Charge 5 (on separate charge sheet) – commit an indictable offence whilst on bail, being theft, contrary to s 30B of the *Bail Act 1977* which carries a maximum penalty of three months' imprisonment or 30 penalty units.

Circumstances of the offences

5. In sentencing you on the trial indictments, I am bound by the principles in the case of *Cheung v The Queen*.¹ As such I must interpret the facts in a way that is consistent with the jury's verdict. The jury rejected your denial in relation to the Common Law assault charge and rejected your position that the sexual conduct related to the three rape charges was consensual sexual activity. Therefore, you fall to be sentenced upon the accounts given by each victim in relation to each charge that the jury has found you guilty of.

Indictment G110066728.2 – Victim AB²

6. In about March or April 2016 you, Ratu William Bose met the complainant, AB on the dating application Tinder. You were both aged approximately 30 years at the time.
7. On your Tinder profile you used the name William Storm. You and AB communicated for a number of weeks on social media and by telephone before you decided to meet in person.
8. AB lived in Sydney. You told AB that you were a sniper, ex French military and a bodyguard in Los Angeles, and that while you were in Melbourne at the time, you were due to return to Los Angeles later in April 2016. Other than being Melbourne, the other facts were untrue.
9. On Friday 15 April 2016, AB planned to fly to Melbourne to collect some personal belongings, pick up a work car and drive back to Sydney on Monday 18 April 2016. She arrived in Melbourne on Friday afternoon, collected the car and drove to St Albans to meet you for the first time in person. You then drove to the Quest Hotel in Tullamarine where AB was staying, and checked in.

¹ [2001] 209 CLR 1.

² A pseudonym.

10. You both drank vodka and at some point had an argument about AB receiving a 'Snapchat' from a male friend. You told her that if you ever found out that she was talking to another man, you would make sure 'that he wears your skin'.
11. AB went to the bedroom and closed the door behind her. You followed her into the bedroom and apologised. You reconciled and had consensual sex. You stayed the night at the hotel with AB.
12. The following day you both attended your home in St Albans where you had something to eat and later returned to the Quest. At some stage you took your washing to the hotel as AB's room had a washer and dryer. You had consensual sex both at your house and back at the hotel.
13. Later in the day you went with AB to pick up her belongings from her ex-partner's house. You then bought some food and washed the car, during which you had another argument over the way in which AB was washing the car. You told AB that she needed to 'shut the fuck up' and not speak. AB later drove you back to your house. You told AB that you would return to Quest to see her later that afternoon.
14. AB waited for you at the Quest however as the time passed she realised that you were not coming back. She saw a 'Snapchat' photograph of you drinking with a group of other people. AB was unhappy about being lied to and told you to arrange to collect your washing from the hotel.
15. You both continued to exchange numerous communications by way of SMS messages, calls and voice messages between Saturday evening and Sunday afternoon which were exhibited at the trial. You asked AB to pick you up from Geelong late on Saturday night but she refused. Many of these communications from you were degrading, offensive and insulting. For example, you referred to her as a 'slut' and made many degrading comments about her weight including 'go to the gym...that's why you only take pics of your face cause you a fat fuck'.
16. AB responded by telling you that she would put your things out at reception for you to collect and that there was no need to keep texting things about her body.

17. On Sunday morning 17 April 2016, AB met her friend NA³ where she spoke to her about you. NA told her she could stay with her and her husband however she returned to the hotel. Having returned to the hotel AB thought that you may have simply been drunk and not meant everything you had said. She decided she would go to Geelong and pick you up.
18. AB arrived in Geelong at approximately 5pm on Sunday afternoon. You were very drunk as were most of your friends. AB wanted to leave as she felt uncomfortable. On the drive back to Melbourne you again began to verbally abuse AB saying things like 'I own you' and telling her to 'shut the fuck up'. AB became very concerned about your behaviour.
19. Upon arrival at your house in St Albans at about 6pm, AB wanted to leave without going into your house but you yelled at her to get out of the car. Once briefly inside the house, AB ran back out to the car, locked the doors and started the engine. You had followed her out and told her to 'get the fuck out of the car'. She refused and you in turn began to punch and kick the car and ripped the plastic bonnet guard from the front of the car. It is these facts that relate to Charge 1 on the plea indictment, criminal damage. You also stood in front of the car with your arms up goading her to drive at you. As this was AB's work car and because you were blocking AB from leaving, she got out of the car and tried to calm you down.
20. AB told you that you were scaring her. She said that you were waving your arms around and then you headbutted her. AB stated that as a result of the headbutt she bit down on her tongue on both sides. Medical evidence led at the trial corroborated this injury. It is these facts that relate to Charge 2, common law assault.
21. AB was in shock, began to cry and said to you 'please don't hurt me, please don't kill me'. You told her to 'get the fuck in the house' you pushed AB back toward your house and told her to go to the bedroom. She told you that she did not want to. You began to rip off her clothes and she said 'stop'. You pushed her onto the

³ A pseudonym.

bed, inserted your penis in her vagina and began to have sex with her. It is these facts that relate to Charge 3, rape.

22. At some point you told AB to turn over. AB was crying and said that she didn't want to. You told her to 'shut the fuck up and do what I fucking say'. You then began to have sex with her from behind. AB was crying and she kept telling you that it was hurting and that she was in pain. She tried to move her pelvis in an attempt to remove your penis however she said you would just put it back in. It is these facts that relate to charge 4 – rape.
23. Once you had stopped, AB began to put on her underwear however you told her to 'get the fuck back in to the bed and don't put your underwear on'. She did so and pretended to go to sleep. When she heard you snoring she crept out of bed, collected her shoes, pants and keys and ran out of the house naked from the waist down. She ran to her car, locked the doors and left the address. Once she was at a safe distance, she called her friend NA and told her what had occurred. NA told her to call the police. She did so and drove directly to a police station.
24. AB underwent a forensic medical examination several hours after reporting the matter to police which noted a number marks and bruises on her body consistent with the time frame of the incident together with two small split lacerations in the posterior fourchette of her vagina.
25. You were arrested and interviewed on Monday 18 April 2016. You denied assaulting or raping AB. You told the police that you did not understand why she would say that you raped her but said she had probably fabricated these allegations as you had 'called her really nasty names by calling her fat'.

Indictment H10194047 – Victim CD⁴

26. On or about 29 December 2016 you met the victim in this matter CD through the dating application Tinder. You both exchanged phone numbers and communicated over the following days. You arranged to meet on 1 January 2017 at CD's parents' house.

⁴ A pseudonym.

27. In the evening of 1 January 2017 you arrived at CD's parents' house. Her parents were away at the time and she was house sitting. You went out for dinner and came back to the house. From then on you were together for approximately two weeks spending most of your time together at CD's unit. During this time you both engaged in consensual sex.
28. On 13 January 2017 you and CD had an argument over the fact that you had claimed you had lost your wallet. CD looked into your bag and found your wallet and felt as if she was being used. You verbally abused CD during that argument calling her degrading names.
29. On 16 January 2017, you and CD went to CD's parents' home for dinner. You consumed alcohol and began to swear and become disrespectful to CD and her parents. When you and CD arrived back at her home after dinner she went to bed. About 12:30am she observed that you were not in bed or at home. She telephoned you and you indicated that you had gone out to get some food which she found odd as there was food in the house. You returned to the house three hours later. While you were out of the house CD packed your belongings and upon your return told you that the relationship was over. In the trial you gave evidence indicating that you had in fact left the home that evening to be with another woman which CD suspected was the case.
30. After CD had told you that the relationship was over you became angry and told her that you would leave in the morning. She told you that she was uncomfortable with you staying and insisted that you leave. You responded to her 'fuck you, I'll do what I want to do'. CD became frightened of you and decided to simply go to bed and ignore you. You joined her in the bed and she faced away from you as you began to insult her further with offensive language such as 'you're a fat cunt, nobody will want to be with you because you're fat and ugly'. CD said this abuse went on for some time and you had a further argument about items deleted from her phone.
31. A short time later you began to cuddle CD and to apologise. She told you not to touch her, that the relationship was over and that she wanted you out of her house. You began kissing her on the neck, she kept telling you not to touch her,

however you did not desist. You then turned her over so she was now lying on her back and you climbed on top of her. She again made it clear to you that she did not want to be near you. She repeatedly told you to stop and not to touch her but you kept going and forced your penis into her vagina. CD gave evidence that she tried to fight you off and was frightened of what you might do to her given a threat made to her by you earlier that evening that 'if you were a guy, I would split your face in half'. She believed at that time that you were going to headbutt her whilst you were on top of her. She said she kept telling you 'no' and to 'stop' and to 'get off'. You continued until you ejaculated inside her. It is these facts that relate to Charge 2 on the second indictment, rape.

32. You still refused to leave the house later in the day on 17 January 2017, however you ultimately left at about 5pm. CD began exchanging text messages with another woman LW⁵, whom you had described to CD as your cousin. After the exchange of messages both women realised that you had been seeing both of them at the same time. They both decided to confront you. On the way to LW's house with her cousin and another friend, CD told them that you had had sex with her that morning against her will. The following day, 18 January 2017, CD told her mother what had occurred. In the evening of 18 January 2017 CD reported the matter to the police and was medically examined.
33. After CD had made contact with LW she noticed that LW was wearing a ring that she recognised as hers. LW said that you had given it to her as a gift however the ring was stolen by you from CD and given to LW. It was valued at approximately \$229. It is these facts that relate to Charge 2 on the plea indictment, theft.
34. On 20 January 2017, you sent LW a message and asked that she pass it on to CD. The message read:
- 'CD I told you to live (sic) me the fuck alone and not do anything stupid. You just fucked up big time by reporting me to the police. Prepare to be fucking famous all over the net you fucking fat bitch'

⁵ A pseudonym.

35. On 21 January 2017, you sent another message to LW which read:

‘Tell you friend CD to have a look at you tube; already 1226 views; next is face book; call her and tell her; she wants to fuck my life; I will fuck hers till the end of days’.

36. It is the facts in relation to the messages on 20 and 21 January 2017 that give rise to Charge 3 on the plea indictment, using a carriage service to cause offence.

37. On 22 January 2017 you were arrested at a café in St Kilda and interviewed on that day. You denied raping CD in any way indicating that CD had fabricated the allegations against you because you called her fat, ugly and some horrible names.

Nature and gravity of the offending

38. I turn to the nature and gravity of the offending.

39. The crime of rape is by its nature a serious offence which is reflected in the maximum penalty of 25 years imprisonment.

40. In relation to both victims there were similar circumstances leading up to the offending. In each case you met the victims via the Tinder dating application. In each case the relationship was short and included consensual sex in the early stages. However in relation to each victim there was a point where the relationship broke down largely because of the way in which you treated the women involved. You used insulting and degrading language towards both of them and in each case they suspected that you were involved in intimate relationships with other women during the time you were seeing each of them. Arguments then followed and in each case you became verbally aggressive and threatening. Very quickly AB and CD mistrusted you and did not want to continue the relationship with you.

41. In relation to the victim AB in my view in all the circumstances this represents a very serious example of rape. The circumstances leading up to the rape included acts of violence by you when clearly AB just wanted to leave. In your angry and intoxicated state, you damaged her car and prevented her from driving away.

She got out of the car and attempted to calm you down, however you headbutted her causing her to bite down on her tongue causing injury. By this stage she was clearly terrified when you ordered her into the house. After you had raped her, she ultimately escaped from you once you were asleep, running to her car naked from the waist down and then driving to a police station.

42. This was a violent rape in circumstances where the victim initially trusted you. You abused her verbally, you made degrading remarks to her, you physically assaulted her and you ordered her to do what you said. She was unable to escape you during the rape.
43. In relation to victim CD, while this rape does not have the more overt serious acts of physical violence in the lead up to the rape as with AB, in my view it is still a serious example of rape. CD made it clear to you that the relationship was over, that she did not want you to touch her and that she wanted you out of her home. She was fearful of you because of an earlier threat you had made. You did not listen to her and when you climbed on top of her she again told you to stop and not to touch her. You persisted and proceeded to rape her. You raped CD in her own home where she is entitled to feel safe. Further, it is very concerning that at the time you committed the rape of CD you were on bail in relation to the rape of AB.
44. In each case, the victims met you on the dating application Tinder. These types of applications are a legitimate way for people to meet and form relationships which is all AB and CD were seeking.
45. Meeting people via dating applications has however created a new landscape of risk attracting people like you who simply seek out women for your own temporary sexual gratification before mistreating them and degrading them as you move on to your next conquest. In this case on your own admission you were also carrying on multiple sexual relationships while seeing the victims in each case. This led to both women making it clear to you that they wanted you out of their lives. Moreover, in each case they both made it abundantly clear to you that they did not want any further sexual contact with you. The confrontations resulted in you becoming angry, abusive and violent leading to your ultimate act

of violence, rape. Women are entitled to live independently without the fear of sexual predators like you seeking them out, abusing them and then ultimately sexually assaulting them.

46. As to the offences on the plea indictment, they form part of the narrative in relation to the more serious rape charges. The damage to the car occurred in the lead up to the rape of AB. The theft of the ring and your abusive text messages were part of the circumstances relating to CD. That said, the content of the text messages directed at CD are a further example of the way you verbally abused her in the preceding days and not dissimilar to the language you used towards AB.

Victim impact statements

47. Both victims prepared victim impacts statements that were tendered and read on the plea.
48. AB struggled to return to work following the incident. While she was given time off work in order to deal with the emotional struggle she was going through and the impact of your attack, ultimately she was let go from her employment. She states that she was successful in her job, she ran a team of five people and she enjoyed her work. She remains unemployed. AB feels that she is always looking over her shoulder and does not wish to leave her house.
49. She suffered ongoing physical pain as a result of the rape and has continued to have nightmares thus affecting her sleep. She states that she has depression that she has not been socially involved with friends and has shut many people out of her life. She suffers from anxiety and relives the event of the rape and the things that you said and did to her. Sadly, she notes that she is angry at herself because she thinks she didn't fight hard enough when you attacked her.
50. CD states that when you held her against her will she was terrified, scared and worried that you would seriously hurt her. She states that she couldn't have ever imagined that she would be in such a situation. She took time off work as a result of the incident. She believes she has lost much of her confidence and struggles every day with the thoughts and memories of the rape.

51. She moved out of the apartment where the rape occurred. She sold that apartment and took the first offer as she wanted to leave it behind her. She notes that her apartment was to be an investment but in the end she did not make any profit, she just wanted to move on.

Personal circumstances

52. During the plea hearing a number of facts concerning your history were presented via your counsel and/or contained within the psychological report prepared by Mr Simon Candlish which was tendered on the plea. As I noted in discussions during the plea hearing, there were matters put in relation to your history which are uncorroborated and in my view, questionable.
53. You are 33 years of age and you were born in Fiji. Your mother is Fijian and your father is of Croatian heritage however was born and grew up in Sydney. It was put on the plea that your mother is a descendant of the Fijian Royal Family and worked for the UN as an advisor to the Fijian government. You said your father is a lawyer and you told your psychologist that he was the Governor General of Fiji in the 70's and 80's however you told your counsel that he was the Attorney General of Fiji. It was said that because of the workload of your parents' careers you were raised largely by your grandparents in both Fiji and Croatia.
54. Despite being in custody for these matters for more than two years, you have not told your mother or your father about the charges you are facing and thus there has been no communication with them or any evidence of corroboration from them as to matters put in relation to your personal history.
55. You are an only child however you had a close relationship with your cousin growing up in Fiji. Your cousin lives in Melbourne and has visited you in custody.
56. You suffered sexual abuse throughout your childhood in Fiji when you were aged eight to 14 by men in your community and that this was a regular occurrence occurring at least once or twice per week when you were aged nine. You also told your psychologist that you were physically abused by your mother from ages six to 16.

57. You were educated in a number of different schools as a result of your mother's travel with her employment. You completed year 12 at Wesley College in Sydney.
58. Following school it was said that you worked on a 'super yacht' for three years then worked in a mail room in Sydney. At aged 20 or 21 you returned to Fiji where you met your wife who was a Swiss national. In 2009, aged approximately 24, you moved to Switzerland. You were married at age 26 and were together with your wife until you returned to Australia in 2013. You said that in Switzerland because your wife was from a wealthy family you did not work much and frequently travelled, on one occasion for a one to two year period. During your time in Switzerland you said you worked as a sous chef in a five star hotel for four years. At the same time you said to your psychologist that you lived with your wife in Switzerland for 11 years. Clearly without restating the figures, the above facts do not reconcile.
59. On one version of your story you were only in Switzerland for four years, although you worked as the sous chef for four years which is a very senior position in a commercial kitchen. Nonetheless, it is a qualification you were somehow able to attain in order to work in a five star hotel in Switzerland.
60. You also said to your psychologist that while in Switzerland you became fluent in six languages including High German, Swiss German and Fijian. You said that it normally takes eight to ten years to learn High German and that you learnt the language in two years.
61. When I raised questions in relation to some of these matters during the plea, no satisfactory explanation was provided by your counsel, nor was any correction or clarification made in relation to the apparent inconsistencies between the instructions you provided to your counsel and Mr Candlish.
62. I was told that you have a daughter that you have never met but have spoken to over Skype. The mother was another women you met before leaving Switzerland. You apparently formally ended the relationship with your wife in 2015.
63. The report of Simon Candlish outlines his conclusions in relation to a number of formal psychometric tests he conducted. Mr Candlish is of the view that you

meet the criteria for Narcissistic Personality Disorder and show some signs of depression. As to the result of the various risk assessments conducted, Mr Candlish states that you fall into the Moderate-High risk category for sexual recidivism.

64. As to your general personality traits Mr Candlish states:

Mr Bose therefore appeared to develop an unhealthy view himself as superior or special as an overcompensation to underlying feelings of inadequacy and inferiority. He appeared to develop a sense of entitlement to money, support and other pleasures. His entitlement extended to sexual entitlement and his frequent sexual encounters and infidelities appeared to reinforce these entitlement attitudes.

Mr Bose appeared to seek to maintain a hedonistic lifestyle involving limited work, being financially supported by partners and maintaining multiple sexual partners whilst in relationship.

65. In relation to the timeframe of the offending, Mr Candlish stated:

He appeared to seek multiple sexual relationships to bolster his fragile sense of self. He appeared to have a propensity towards interpersonal sensitivity and when confronted by his first victim he appeared to react angrily, perhaps akin to a shame-rage response, and sought to diminish her through verbal abuse. He appeared to force himself onto the victim sexually due to a desire to have sex when he wanted it, reflecting his sense of entitlement as well as appearing to seek to show a disregard for the victim and to punish her through engaging in sexual activity without her consent.

Mr Bose was arrested for this initial offending. It is concerning that he continued his behaviour of secret multiple sexual relationships as well as then engaging in another similar act of rape against another victim some months later. This repeated behaviour appears to reflect his low self-awareness and the strength of his sense of entitlement and issues with empathy.

Sentencing considerations

66. I turn now to sentencing considerations.
67. Mr Williams who appeared on your behalf at the trial and on the plea outlined a number of matters to be taken into account in mitigation.
68. Turning first to delay. Following committal, the rape trials were initially presented in this court by the prosecution as joint trials. The court upheld that position resulting in an interlocutory appeal by you. Before the appeal was concluded, the prosecution took a different course and decided the allegations in relation to each victim should be heard separately. As such two trials were conducted however ultimately by the time of verdict in each case a significant delay has resulted which has not been attributable to you. As such I accept that delay is relevant and I take it into account.
69. Mr Williams also pointed to the fact that you are in custody for the first time and that as a result of the nature of the charges, you are categorised as a protection prisoner limiting access to programs. Nonetheless he notes that you have undertaken programs in custody whilst on remand including programs in relation to drugs and alcohol and a program relating to building better relationships. You have also enrolled in a certificate course in engineering.
70. I take into account your plea of guilty in relation to the plea indictment charges. However as noted by Ms Hassan who appeared on behalf the Director of Public Prosecutions, the evidence in relation to the offences to which you pleaded guilty was incontrovertible. Further, the criminal damage formed part of the narrative in relation to the charges concerning AB and indeed the facts in relation to the criminal damage were led during the trial. Nonetheless you are to be given some credit for your acceptance of responsibility in relation to those three charges.
71. I take into account the matters raised in the psychological report that to some extent explain your personality flaws, the reasons why you treat women the way you do and also why you lack insight in relation to your behaviour towards women.

72. Mr Williams submitted that your prospects of rehabilitation should be assessed as reasonable. You do not have any meaningful family supports and as noted by Mr Candlish, you impress as being a fairly disconnected individual with limited emotionally close ties to others. That said, Mr Candlish notes that your risk level has the potential to reduce over time which would translate in improving your prospects of rehabilitation. In my view in all the circumstances, including your continued denial of the offences and the fact that you committed the second rape while on bail for the first rape, raises concerns about your capacity to gain real insight into the issues you face.
73. Further and relevantly, I was told of a subsequent matter that you have been sentenced for in the Magistrates Court in 2017. The incident occurred in August of 2016, again while you were on bail in relation to the first rape. You ran a contested hearing in relation to charges of unlawful assault, making threat to kill and using a carriage service to harass. You were convicted on the first two charges, the Commonwealth charge being dismissed as an alternative to the threat to kill charge. The charges related to a female victim you had met on Tinder. The summary that was tendered notes that the victim became anxious of your behaviour, a dispute ensued where you dragged her out of a venue, stood over her and abused her. You repeatedly telephoned her leaving a voice message stating 'You fucking skank fuck you I'll kill you, you fucking whore'. You received two months imprisonment which has been deducted from your presentence detention.
74. It is that matter, in addition to all of the circumstances surrounding the offending, your complete lack of remorse and the matters raised by Mr Candlish which lead me to the view that your prospects of rehabilitation can only be viewed as guarded at best.
75. General deterrence, denunciation of your conduct and protection of the community are also prominent sentencing considerations in your case. As to specific deterrence, while you do not have any prior convictions, for the reasons discussed as to your prospects of rehabilitation and the fact that there are two victims in this case, specific deterrence must also carry weight.

76. I note the recent comments of the Court of Appeal in the case *DPP v Macarthur*⁶ a case involving charges of rape and attempted rape where the Court said:

[T]he sentences to be imposed in a case such as this must make it clear that any person, who is minded to exploit the vulnerability of members of the public, particularly women, in such circumstances, by sexually interfering with them, will suffer a deprivation of their right to be at liberty within society for a substantial period of time. As an associated consideration, it is important that the Court make it plain that offending of the kind that was engaged in in this case is entirely unacceptable and reprehensible. In that way, in a case such as this, the Court, by the sentences imposed by it, has a duty to express its denunciation of such offending in clear terms.⁷

77. You fall to be sentenced as a Serious Sexual Offender pursuant to Part 2A of the *Sentencing Act* 1991 on the third charge of rape.

78. Section 6D of the *Sentencing Act* 1991 provides that when sentencing you as a Serious Sexual Offender, I must have regard to the protection of the community as the principal purpose for which the sentence is imposed. In my view protection of the community is able to be achieved by the sentence that I will impose. Further, the prosecution does contend for a disproportional sentence.

79. Ms Hassan submitted that discretionary registration applies in this case pursuant to s 11 of the *Sex Offenders Registration Act* 2004 which requires the court to be satisfied beyond reasonable doubt that the person poses a risk to the sexual safety of one or more persons of the community.⁸ It was conceded that you have committed a Class 3 offence and that you are a serious sexual offender, however Mr Williams opposed the making of the order for registration.

80. I was referred to the decision of *Bowden v The Queen*⁹ where the Court concluded that the clear legislative intent is that the judge must be satisfied that the risk that is found to exist will remain at the time of the prisoners release.

⁶ [2019] VSCA 71.

⁷ Ibid at [69].

⁸ S 11(3).

⁹ [2013] VSCA 382 at [37]-[38].

Further, the court must be satisfied that the risk is a real risk and not unreal, or fanciful.¹⁰

81. On the evidence before me you have been assessed as falling within the Moderate-High risk for sexual recidivism. Further, for the reasons outlined above, in my view there are significant concerns as to your appreciation of your criminal conduct and your insight. You continue to deny the offences and you have committed a subsequent violent offence against another woman. While I acknowledge the legislative intent, I am satisfied beyond reasonable doubt that you do pose a risk or will pose a risk upon your release, to warrant the making of an order. As such, you will be placed on the register and the reporting period is for life.
82. Finally, I take into account that while on remand for these matters you have been sentenced in relation to the subsequent matter as outlined above and received a two month term of imprisonment which is unable to be declared pursuant to s 18 of the *Sentencing Act* 1991.

Sentence

83. Mr Bose please stand.
84. Ratu William Bose, in relation to the first indictment, on Charge 1, common assault, you will be convicted and sentenced to 6 months imprisonment. On Charges 2 and 3, rape, you will be convicted and sentenced to 7 years and 6 months imprisonment on each charge. Charge 2 of the first indictment will be the base sentence.
85. In relation to the second indictment, on Charge 1, rape, you will be convicted and sentenced to 7 years imprisonment.
86. In relation to the plea indictment, on Charge 1 damaging property, you will be convicted and sentenced to 2 months imprisonment. On Charge 2, theft, you will be convicted and sentenced to 1 month imprisonment. On Charge 3, using a

¹⁰ Ibid at [33].

carriage serviced to cause offence, you will be convicted and sentenced to 4 months imprisonment.

87. In relation to Summary Charges 1 and 5, breach of bail and Summary Charge 5, commit an indictable offence while on bail, you will be convicted and sentenced to 1 month imprisonment on each charge.
88. I direct that one year of Charge 3 on the first indictment and 4 years of Charge 1 on the second indictment be cumulative on each other on Charge 2 (the base charge) making for a total effective sentence of 12 years and 6 months imprisonment. The remaining sentences will be wholly concurrent including the sentence on the Commonwealth charge which will commence today.
89. I direct that you serve a minimum of 9 years before becoming eligible for parole.
90. Pursuant to s 18 of the *Sentencing Act* 1991, I declare that 859 days be reckoned as the period of imprisonment already served under the sentence I have imposed. That does not include today.