



**IN THE SUPREME COURT OF GIBRALTAR**

2024/CRIM/004

**BETWEEN:**

**REX**

**-V-**

**ZAKARIA LAARAJ**

**Kerrin Drago** (of the **OCPL**) for the **Crown**.

**Shane Danino** (instructed by **Hassans**) for the **Defendant**.

Sentencing date: 28 May 2025

**SENTENCING**

**HAPPOLD, J:**

1. On 28 February 2025, after a trial by jury, you were convicted of 13 counts on two indictments. On the first indictment, which relates to your conduct towards Miss X, seven counts of sexual activity with a child under the age of 13 contrary to s 219 of the Crimes Act 2011, two counts of causing a child under the age of 13 to engage in sexual activity contrary to s 220 of the Crimes Act, and one count of sexual activity with a child, contrary to s 221 of the Crimes Act. On the second indictment, in relation to your conduct towards Miss Y, three counts of sexual assault contrary to s 215 of the Crimes Act. I presided over your trial and it now falls in me to sentence you.

2. While I will be referring to your victims by name in open court today, their names will not be included in the sentencing remarks to be published on the GCS website, where they be identified by the same initials as set out in the indictment. This is in accordance with their right to lifelong anonymity pursuant to s 466 of the Criminal Procedure and Evidence Act 2011. The press, I am sure, will not need to be reminded, but for those others here, I will say that breach of that prohibition (which includes the publication of their names and also of any matter likely to lead to their identification) is a criminal offence.
3. Your two victims, Miss X and Miss Y were accustomed to spending time with you and your family, in their home and yours, where they would sometimes stay overnight. The first two counts of sexual activity with a child under the age of 13 (Counts 1 and 2 on the 1<sup>st</sup> indictment) relate to an incident at night in your home where Miss X was staying. On that occasion, you entered the room in which she was sleeping, touched her breasts and touched her vagina over her underwear. The third count (Count 4) relates on an occasion at Miss X's home when you and your family were staying at the property. Miss X was sleeping in the living room with her grandmother and youngest brother. You waited until everyone was asleep and then touched Miss X's breasts. The fourth count (Count 5) relates to another incident at your home. When Miss X was there to watch a film. You put your hands on her breasts. The fifth count (Count 6) is similar to the third, when you again touched Miss X's breasts in her home when you were staying there. The sixth and seventh counts (Counts 7 and 9) relate to an incident outside the mosque, when Miss X was sleeping in the car outside. During a break, you returned to the car, kissed Miss X and touched her breasts. The two counts of causing a child under the age of 13 to engage in sexual activity (Counts 10 and 11) were specimen counts, relating to occasions when you would turn your head when Miss X came to kiss you, so she kissed you on the mouth. The count of sexual activity with a child (Count 12) was also a specimen count and related to you touching Miss X's breasts when she was over the age of 13 but below the age of 16 at the time.

4. As for the three counts of sexual assault against Miss Y, they were pursued by amendment of the incident during the trial because Miss Y was unable to say whether they had happened prior or after her 16<sup>th</sup> birthday. The first two counts (Counts 1 and 2 on the 2<sup>nd</sup> indictment) relate to two occasions at your home on the same night when Miss Y was staying over. On both occasions, you entered the room where she was sleeping and touched her breasts over her clothing. The final count (Count 3) relates to a similar incident on another date.
5. You are 35 years old. You have no previous convictions and were of good character. You are divorced and have children from the relationship. You have a good employment history. I have had the advantage of a pre-sentence report. You are still in denial about your offending. The best that can be taken from the report is that you are considered at low risk of re-offending.
6. I have also received victim personal statements from Miss X and Miss Y. They are both affecting. Miss X writes that because of the abuse she suffered at your hands, she did not get fully to live her childhood. *“It felt like was trapped and the world was caving in on me,”* she recounts. The abuse affected her mental health and her studies. She felt and still feels shame and guilt, struggles with anxiety and depression, and suffers from nightmares and flashbacks. She says, *“I have lost my physical and emotional safety.”*
7. In her statement, Miss Y writes that the assaults you committed against her *“deeply impacted every area of my life – my general wellbeing, mental health, relationships, and future.”* She struggles to feel safe and to trust people. Familiar places are filled with painful memories. She feels that she has lost the person she once was. I observed both Miss X and Miss Y give evidence and saw that they found it difficult to recount what were obviously painful memories.
8. Under s. 484(4) of the Criminal Procedure and Evidence Act 2011 in sentencing you I can take account of the Sentencing Guidelines issued by

the Sentencing Council for England and Wales. Given I am sentencing for more than one offence, I propose to follow the approach set out in the Guideline on totality. Mr Danino has addressed me on whether I should impose concurrent or consecutive sentences. In my view, although the sentences are similar, they were committed against two victims, and that means it is appropriate from the sentences as regards each victim to run concurrently but for the lead sentences on the two incidents to run consecutively.

9. As regards the seven counts of sexual assault of a child under 13, although I do not seek to minimise how Miss X has been affected by the abuse she has suffered at your hands, as recounted in her victim personal statement, it does not seem to me to fall within the category of “*severe psychological harm*” for the purpose of the sentencing guidelines. It is serious but, unfortunately, not untypical, and the level of harm inherent in this type of serious offending is already accounted for in the applicable guidelines. This means that the counts involving the touching of Miss X’s breasts are Category 2 harm, as they involved the touching of the naked breast area: the others are Category 3. Culpability in all cases is A. You were an adult who Miss X and her parents trusted. You abused that trust. That means that for Counts 1, 4, 5, 6 and 7 the starting point under the Guideline on sexual assault of a child under 13 is four years’ custody, with a range of between three and seven years, and for Counts 2 and 9 the starting point is 1 year’s custody, with a range between 26 weeks to two years ‘custody.
10. In relation to the two counts causing a child under 13 to engage in sexual activity, both are Category 3 harm but Category A culpability because of your abuse of trust. This means the starting point is 26 weeks’ custody, with a range of between a high-level community order and three years’ custody. I should say that I intend to impose sentences on these counts comparable to that for Count 9 (the kissing outside the mosque).
11. As for the one count of sexual activity with a child, there was touching of Miss X’s naked breasts, so there was Category 2 harm, and culpability is

again A because of your abuse of trust. Accordingly, the starting point under the Guideline on sexual activity with a child is three years' custody with a range of between two to six years custody.

12. I do not propose to consider the place and time of your offending as aggravating factors. In my view, that is already covered by classifying your culpability at high because it was your breach of trust that permitted you to assault Miss X at night and in her home. The number of offences does mean, given that I intend to sentence for them concurrently, that the more serious are aggravated by the lesser offences. As regards mitigating factors, I take account of your previous good character and lack of criminal convictions.
13. Turning to your offending towards Miss Y, it seems to me that all Count 1 involved Category 2 harm, as Miss Y, being asleep when you assaulted her, was in a particularly vulnerable position. As regards Counts 2 and 3, they involved Category 3 harm, as the touching was of Miss Y's breasts over her clothes. I do not find any to be Category 1 for the same reasons as with Miss X. I do not seek to minimise Miss Y's suffering but, although serious it is not untypical of the harm suffered by victims of such offences and is already taken account of in the Guideline on sexual assault. But they are Culpability A because you abused Miss Y's trust. That means the starting point for Count 1 is two years custody with a range of between one to four years' custody, and for Count 2 and 3 is 26 weeks custody with a range of between a high-level community order and 1 year's custody.
14. Again, the offences are mutually aggravating. Indeed, Counts 1 and 2 formed part of the same, sustained incident. Again, in mitigation, there is your previous good character and lack of criminal convictions.
15. Taking all of this into account, my sentence is as follows.
  - For Count 1 on the 1<sup>st</sup> indictment (which I take as the lead offence against Miss X), I sentence you to five years and six month's years' custody.

- For Counts 2, 9, 10 and 11, I sentence you to one year's custody on each count, all to be served concurrently with Count 1.
- For Counts 4, 5, 6 and 7, I sentence you to four year's custody on each count, both to be served concurrently with Count 1.
- For Count 12, I sentence you to three year's custody, to be served concurrently with Count 1.
- For Count 1 on the 2<sup>nd</sup> indictment (which I take as the lead offence against Miss Y), I sentence you to 18 months' custody. This sentence will be served consecutively with Count 1 on the 1<sup>st</sup> indictment.
- For Counts 2 and 3, I sentence you to six month's custody on each count, both to be served concurrently with Count 1.

16. Accordingly, your total sentence will be seven years' custody. In my view that is **just and proportionate to your offending as a whole. You will receive credit for the time that you have spent on remand.**

17. I am also asked to make a Sexual Harm Prevention Order under s 326 of the Crimes Act 2011. Mr Danino tells me that Defence does not object to me doing so. The only issue is its duration. Accordingly, I will make the order in the form sought for a period of ten years.

**Matthew Happold**

**Puisne Judge**

Date: 28 May 2025