

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

**Criminal Case No. HAC 008 of 2013**

**STATE**

**v.**

**DINESH CHANDRA**

Counsel: Ms K. Semisi for the State  
Mr. G. O'Driscoll for the Accused

Dates of trial: 21, 22 and 23 July 2014

Date of Judgment: 25 July 2014

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**JUDGMENT**

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Dinesh Chandra, you have been charged with the following three counts:

**FIRST COUNT*****Statement of Offence***

**SEXUAL ASSAULT:** Contrary to section 210(1) of the Crimes Decree 44 of 2009.

***Particulars of Offence***

**DINESH CHANDRA** on the 10<sup>th</sup> day of February 2010 at Nasinu in the Central Division, unlawfully and indecently assaulted **KARISHMA KAJAL SHARMA** by sucking her breast.

**SECOND COUNT*****Statement of Offence***

**RAPE:** Contrary to section 207 (1) and (2) (a) of the Crimes Decree 44 of 2009.

***Particulars of Offence***

**DINESH CHANDRA** on the 5<sup>th</sup> day of March 2010 at Nasinu in the Central Division had carnal knowledge of **KARISHMA KAJAL SHARMA** without her consent.

**THIRD COUNT*****Statement of Offence***

**RAPE:** Contrary to section 207 (1) and (2) (a) of the Crimes Decree 44 of 2009.

***Particulars of Offence***

**DINESH CHANDRA** on the 13<sup>th</sup> day of March 2010 at Nasinu in the Central Division had carnal knowledge of **KARISHMA KAJAL SHARMA** without her consent.

2. In the unanimous opinions of three assessors you have been found not guilty of the two rape counts and in a 2:1 majority guilty of the sexual assault.
3. The prosecution evidence came solely from the complainant herself and the ambiguous evidence of a medical examination some 18 months later. The medical report is probative of nothing.
4. The complainant's evidence was unsatisfactory. She gave evidence that was inconsistent in part with her statements to the Police on the matter. She had written two letters withdrawing the complaint, written in circumstances that do not ring true with her evidence in Court.
5. The Court has strong doubts about the evidence of the complaint and it cannot be said that the State has proved these counts beyond reasonable doubt.
6. I agree with the assessors on Counts 2 and 3 and find you not guilty of count 2 and 3. You are acquitted of those counts.
7. The majority opinion on Count One of guilty does not sit well with the opinions on Count 2 and 3. The evidence came from the same witness. I reject the majority opinion of guilty and I find you not guilty also of the sexual assault. You are acquitted of Count One.

8. That is the judgment of the Court.



A handwritten signature in black ink, appearing to read "P.K. Madigan". The signature is stylized with a large, looping initial "P" and a cursive "K" and "M".

**P.K. Madigan**  
**Judge**

At Suva  
25 July 2014