

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CRIMINAL JURISDICTION

CRIMINAL CASE NO.: HAC 41 OF 2013

STATE

-v-

NIZAR MUNIR SAMUT

Counsels : Mr. S. Kiran for the State
The Accused in person
Date of Trial : 23 July 2014 to 24 July 2014
Date of Summing Up : 25 July 2014
Date of Judgment : 25 July 2014

JUDGMENT

1. The Accused is charged under following count:

COUNT

Statement of Offence

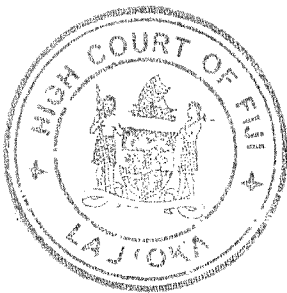
RAPE: Contrary to Section 207 (1) and (2) (1) (b) and (3) of the Crimes Decree, 2009.


Particulars of Offence

NIZAR MUNIR SAMUT, on the 12th day of January 2013, at Lautoka in the Western Division, inserted his finger into the vagina of **SAS**, a 3 year old.

2. The three assessors unanimously found accused Guilty of the count against him.

3. I direct myself in accordance with the law and the evidence which I discussed in my summing up to the assessors.
4. Considering the nature of the evidence before the court, I am convinced that the prosecution had proved the case beyond reasonable doubt.
5. Prosecution case was based on the evidence of the victim. She was 3 years old at the time of the incident. Accused is known person to her call as uncle. Accused had inserted his finger into her vagina in the spare room of her house. She had complained to the mother same day. Mother confirmed her evidence regarding a recent complaint. She was examined by a doctor three weeks later. Doctor stated that her physical observations are consistent with the history given by the victim.
6. The accused remained silent and that is his right.
7. I am satisfied that evidence is sufficient to establish the guilt of the accused beyond reasonable doubt.
8. In my view, the assessor's verdicts were not perverse. It was open for them to reach such conclusion on the evidence. I concur with the verdict of the assessors.
9. I find the accused Guilty as charged on the count of Rape contrary to Section 207 (1) and (2) (1) (b) and (3) of the Crimes Decree No. 44 of 2009, and convict him for the count against him.
10. This is the Judgment of the Court.




Sudharshana De Silva
JUDGE

At Lautoka
25th July 2014

Solicitors: Office of the Director of Public Prosecution
The Accused in person