

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

**Criminal Case No.78 of 2013**

**STATE**

**v**

**ABDUL MUKIM**

Counsel: Mr M. Mataiva for the State  
Ms . M. Tarai for the accused.

Dates of trial: 20, 21, August 2014

Date of Judgment: 22 August 2014

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**JUDGMENT**

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**Abdul Mukim**, you have been charged with the following offence:

***Statement of Offence***

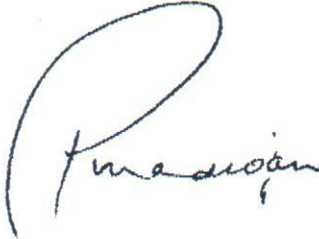
**RAPE** : contrary to sections 207(1) and 207(2)(a) of  
the Crimes decree 2009.

***Particulars of offence***

**ABDUL MUKIM** on 2<sup>nd</sup> November 2013 at Nasarawaqa, Bua in the Northern Division had sexual intercourse with (name Suppressed) without her consent.

2. The three assessors have returned after trial with unanimous opinions of not guilty.
3. There was no dispute at trial that there had been an act of sexual intercourse between the parties on the night of the 2<sup>nd</sup> November 2013. The victim said she was raped, the accused say that they were boyfriend and girlfriend and that it was just another sexual act as they had had before and that she was agreeing to on this occasion.
4. That being the situation, proof beyond reasonable doubt of the rape hangs solely on the credibility of the complainant herself. Although being 19 years of age, she appeared to have the mental maturity of somebody much younger. Her evidence was unsatisfactory to the extent that she contradicted herself on many occasions and she exaggerated unimportant things. For example, a walk to the shop which takes ten minutes, she said takes two hours. She seemed to be fearful of her parents and her Aunt with whom she lived and she never told her superiors that she was raped, merely that they had gone down into the bushes together.
5. The accused gave evidence, some of which the Court did not believe, but that is not the point. He doesn't have to prove anything.

6. The prosecution case hangs solely on the credibility of the complainant. The medical evidence is ambiguous.
7. In the premises, the verdict of the assessors was certainly available to them; it is not perverse and having directed myself appropriately I accept it. It would be very dangerous to convict the accused on her unsatisfactory and inconsistent testimony.
8. I find the accused not guilty and he is convicted and discharged
9. That is the judgment of the Court.



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



At Labasa  
22 August 2014