

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 283 OF 2013S

STATE

VS

ILIESA NAGONEVULAVULA

Counsels : **Mr. M. Vosawale and Mr. A. Paka for State**
Ms. T. Rigsby for Accused

Hearings : **20 and 21 October, 2014**

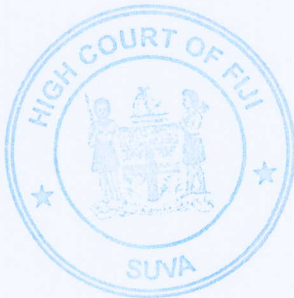
Summing Up : **22 October, 2014**

Judgment : **22 October, 2014**

JUDGMENT

1. The assessors have returned with a mixed verdict. Assessors No. 1 and 2 have found the accused not guilty as charged, on both counts of rape. Assessor No. 3 has found the accused guilty as charged on both counts of rape.
2. The majority have not accepted the prosecution's version of events, while the minority had accepted the prosecution's version of events.
3. I have reviewed the evidence called in the trial and I have directed myself in accordance with the summing up I gave the assessors today.
4. The verdict of the majority and the minority was not perverse. It was open to them to reach such conclusion on the evidence.

5. Assessors are there to assist the trial judge reach a conclusion on the guilt or otherwise of the accused. The verdict of the majority and the minority has presented the court with a dilemma. On the facts, either conclusion is possible.
6. However, I have decided to accept the majority view on the case. I accept their opinion. In my view, the prosecution had not done enough to prove the accused's guilt beyond a reasonable doubt. The benefit of the doubt must go to the accused.
7. I find the accused not guilty as charged and I acquit him accordingly.
8. Assessors thanked and released.



Salesi Temo
JUDGE

Solicitor for the State : **Office of the Director of Public Prosecution, Suva.**
Solicitor for the Accused : **Rigsby Law, Barrister and Solicitor, Nausori.**