

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Criminal Case No. HAC 277 of 2013

STATE

V

SUMITH CHAND

Counsel: Mr. S. Nath with Mr. R. Kumar for the State
Ms. T. Kean (L.A.C.) for the accused

Dates of hearing: 6, 12 and 13 November 2014
Date of Judgment: 14 November 2014

JUDGMENT

Sumith Chand, you have been charged with the following offence:

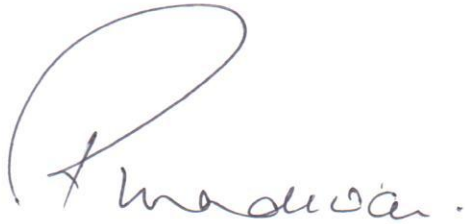
Statement of Offence

Rape: contrary to section 207 (1) and (2) (a) of the Crimes Decree No. 44 of 2009.

Particulars of Offence

Sumith Chand on the 7th day of July 2013 at Nasinu in the Central Division, had carnal knowledge of a girl namely XXXX, without her consent.

2. After trial, three assessors have returned with a unanimous opinion of not guilty. I direct myself on my own summing up and come to the following decision.
3. The case for the State centred almost entirely on the evidence of the young lady who alleges she was raped. Her evidence was rather unsatisfactory. She admitted she had given a different tale to the Police when first questioned, but now says that that was a lie. She was evasive and hesitant and she contradicted herself on occasions. When asked why she didn't call the Police or her family when she had access to a telephone, she refused to answer. Many parts of the history she retold were implausible and it would not be safe to convict on her evidence. The evidence of her father, the medical officer and the record of interview of the accused added nothing to the prosecution's case.
4. I reject 75% of the victim's evidence and as a consequence I cannot be sure beyond reasonable doubt that she was raped.
5. I agree with the assessors and find the accused not guilty. He is acquitted and discharged immediately.
6. That is the judgment of the Court.



P.K. Madigan
Judge

At Suva

14 November 2014