

IN THE HIGH COURT OF FIJI

AT LABASA

CRIMINAL JURISDICTION

Criminal Case No: HAC 79 of 2013

BETWEEN:

THE STATE

AND:

JOSEFA VEREVOU

Counsel: Mr. F. Lacanaivalu for State
Mr. M. Fesaitu for Accused

Date of Hearing: 23-24 December 2014

Date of Judgment: 24 December 2014

JUDGMENT

- [1] The Accused is charged with 3 counts of rape. Count 1 alleges digital rape with finger. Counts 2 and 3 allege penile rape. Before the commencement of trial, the Accused pleaded guilty to counts 2 and 3. He offered to plead guilty to a lesser charge of sexual assault contrary to section 210 (1) (a) of the Crimes Decree on count 1 but that offer was rejected by the State. The Accused was tried on count 1 only.
- [2] After deliberating for twenty minutes, the assessors expressed unanimous opinions that the Accused was not guilty of rape but guilty of sexual assault on count 1.

[3] I direct myself in accordance with my summing up. Two versions of facts were led at trial. One was the complainant's version and the other was the Accused's version. The Accused admitted touching the complainant's genital area but denied penetrating the vagina with his finger. The complainant's version is that the Accused penetrated her vagina with his penis. She was 12 years old at the time. The age of the complainant is not in dispute. The only issue is whether the complainant's account of penetration is true?

[4] Obviously the assessors have accepted the Accused's version of facts or they have entertained a reasonable doubt as to whether penetration took place as alleged by the complainant. The assessors were entitled to make this finding and I do not have any cogent reason to disagree with their opinions.

[5] I find the Accused not guilty of rape but guilty of sexual assault contrary to section 210 (1) (a) of the Crimes Decree on count 1. The verdict of the Court is:

Count 1 – Convicted of sexual assault.

Count 2- Convicted of rape on guilty plea.

Count 3 – Convicted of rape on guilty plea.



Daniel Goundar

JUDGE

At Labasa

24 December 2014



Solicitors:

Office of the Director of Public Prosecutions for State

Office of the Director of Legal Aid Commission for Accused