

IN THE HIGH COURT OF FIJI

AT LAUTOKA

CRIMINAL JURISDICTION

CRIMINAL CASE NO.: HAC 100 OF 2014

STATE

v

RATU MELI SUGUTA

Counsel: Mr. S. Seruvatu with Ms. S. Kiran for State

Accused tried in absentia

Date of Summing Up: 26th October, 2017

Date of Judgment: 26th October, 2017

JUDGMENT

1. The Accused was charged with the following counts and tried before three assessors.

COUNT 1

Statement of Offence

SEXUAL ASSAULT: Contrary to Section 210 (1) (a) and (2) (a) of the Crimes Decree 44 of 2009.

Particulars of Offence

RATU MELI SUGUTA, on 13th day of June 2014 at Nadi in the Western Division, unlawfully and indecently assaulted **DIULA BURUTABUA KOROI** by licking the vagina of the said **DIULA BURUTABUA KOROI** with his tongue.

COUNT 2

Statement of Offence

RAPE: Contrary to Section 207 (1) and (2) (a) of the Crimes Decree 44 of 2009.

Particulars of Offence

RATU MELI SUGUTA, on 13th day of June 2014 at Nadi in the Western Division, penetrated the vagina of **DIULA BURUTABUA KOROI** with his penis without the consent of the said **DIULA BURUTABUA KOROI**.

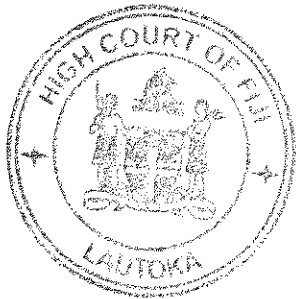
2. Assessors unanimously found the Accused guilty on both counts as charged.
3. I direct myself in accordance with my own Summing Up and review evidence led in the trial.
4. Having concurred with the opinion of Assessors, I pronounce my judgment as follows.
5. I am satisfied that the evidence Complainant gave is truthful and believable.
6. Complainant is the only witness called in this short trial. It has to be accepted that no corroboration is required from an independent source to prove any of the charges. Complainant's cousin Jone, who could have been an important witness to testify about her recent complaint, was not available for the Prosecution. Complainant said he is in jail. Production Order issued by this court could not secure his attendance in time. However, his absence did not shake the Prosecution case.
7. Complainant maintained her consistency. She had not screamed or raised alarm. She said that she felt betrayed and was scared of her stepfather. Other people who were drinking with her were not around her. She said that she did not have the courage to scream because she was scared of him, but she still tried to push

him. Soon after the incident, she had gone to the Namaka Police Station and reported the matter.

8. I watched the demeanor of the Complainant. She was quite straightforward and gave evidence with confidence although, at times, she burst into tears. I am certain she told the truth to this Court.
9. I am satisfied that it is the Accused and no one else had committed these crimes. There is no dispute that Accused was present in that house drinking with the Complainant. According to the Complainant's evidence, by the time the incident had happened, her ex-boyfriend, her cousin and her girlfriend were the only people present in that house apart from her stepfather. She was certain that the person on her was none other than the Accused Ratu Meli Suguta, her stepfather.
10. Complainant told how she had recognised the Accused. When she touched a bald head in the dark, she realized it was not her boyfriend. At that time, Accused was the only bald headed person in that house. Her ex-boyfriend was heavily drunk and was still asleep when he was made to lie beside her by the Accused. Her cousin Jone was sleeping in a room with his girlfriend.
11. Complainant said that the light coming from outside was bright enough to recognize the Accused. She had seen the Accused at a close proximity in the same camouflaged t-shirt that he had been wearing at the drinking party a short while ago. Accused is her stepfather since 2005 and had known him for about 9 years. Complainant would not have found it difficult to recognize her stepfather who was known to her for such a long period. I am satisfied that Complainant positively recognized the Accused. Prosecution proved the identity of the Accused beyond a reasonable doubt.
12. 1st count is about a sexual assault. The indecent act the Prosecution alleges in this case is licking of the vagina. Complainant said that when she woke up she saw and felt the Accused licking her vagina. She further said that she did not give consent to the Accused to lick her vagina. I am satisfied that Sexual Assault count is proved beyond a reasonable doubt.
13. Regarding the 2nd count of Rape, the Complainant told that the Accused had put her leg on his shoulder and then he inserted his penis into her vagina. She told

Court that she felt Accused's penis in her vagina and that she was moving back and forth during the process. She said she did not consent or allow the Accused to lick her vagina or have sexual intercourse with her.

14. Prosecution proved each charge beyond reasonable doubt. I agree with the unanimous opinion of assessors.
15. I find the Accused guilty on each count. Accused is convicted on each count accordingly.
16. That is the Judgment of this Court.



Aruna Aluthge

Judge

AT LAUTOKA

26th October, 2017

Solicitor: Office of the Director of Public Prosecution for State

Accused tried in absentia.