

IN THE HIGH COURT OF FIJI

AT LABASA

CRIMINAL JURISDICTION

CRIMINAL CASE NO: HAC 043 OF 2016 LAB

STATE

V

PAULA MUAYARA

Counsels : Mr. L. Fotofili for State  
Ms. C. Choy and Ms. K. Marama for Accused

Hearings : 20 and 21 November, 2017

Summing Up : 21 November, 2017

Judgment : 21 November, 2017

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### JUDGMENT

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1. All the three assessors had return with a not guilty opinion. They are of the view that the accused was not guilty as charged.
2. Obviously, they had not accepted the prosecution's version of events. It also meant they had not accepted the complainant's evidence and version of events.
3. I have reviewed the evidence called in the trial and I had directed myself in accordance with the summing up I gave the assessors today.

4. Assessors are there to assist the trial judge come to a decision on whether or not the accused was guilty as charged.
5. In this case, the complainant said, the accused penetrated her vagina with his finger on 14 August 2016. The accused, in his evidence, denied the same. The scale of justice was evenly balanced at the time, after looking at both versions of events.
6. However, when the complainant's letters to the Labasa High Court and Director of Public Prosecution, were considered, it introduced numerous doubts into the complainant's own allegation. The effect of the letters were such that it effectively neutralized the complainant's case.
7. Also, while the case was pending, the complainant openly went to see the accused and even stayed with him. She also knew a Domestic Violence Restraining Order was in existence and she was not allowed to be in contact with the accused.
8. In my view, the letters to the High Court and the DPP and non-adherence to the Domestic Violence Restraining Order cast a lot of doubts into the prosecution's case. The benefit of that doubt must go to the accused.
9. Consequently, I accept the three assessors' opinion and I find the accused Not Guilty as charged and acquit him accordingly.
10. Assessors thanked and released.

  
**Salesi Temo**  
**JUDGE**



Solicitor for the State :  
Solicitor for the Accused :

Office of the Director of Public Prosecution, Labasa  
Legal Aid Commission, Labasa