

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 417 OF 2016S

STATE

VS

GOVIND SAMI

**Counsels : Ms. L Bogitini for State
Mr. A Reddy for Accused**

Hearing : 19, 20, 21, 22, 23, 26 and 27 February, 2018

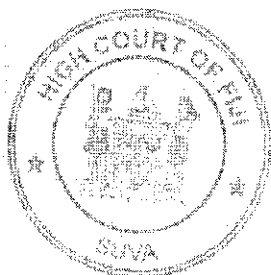
Summing Up : 28 February, 2018

Judgment : 28 February, 2018

JUDGMENT

1. The three assessors had returned with a unanimous opinion finding the accused guilty as charged on all counts.
2. Obviously, the assessors had accepted the prosecution's version of events. It meant they had accepted the complainant's (PW1) 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. The assessors' unanimous opinion was not perverse. It was open to them to reach such conclusion on the evidence.
5. Assessors are there to assist the trial judge come to a decision on whether or not the accused was guilty as charged. Assessors represent the public and it is only right and proper that their views are taken seriously.
6. Like the assessors, I have sat in this courtroom and listened to the complainant give evidence for 4 days. She was thoroughly cross-examined by the defence. Her evidence regarding the two rape complaints and the indecently annoying a person complaint, to me, appear credible. This was so despite the fact that she was inconsistent in some peripheral matters. On count no. 1, she said the accused forced himself on her without her consent. The accused was in a position of authority, as owner of the farm and farm house. He pays the complainant's husband to work for him. In my view, the complainant had no choice, but to submit to her boss's sexual demands. In my view, the accused knew exactly that she was in no position to stop him. This pattern was also reflected in count no. 2 and 3. Because of his position in the farm, the accused took advantage of the complainant.
7. I accept the complainant's evidence on her allegations in count no. 1, 2 and 3. In my view, overall, she was a credible witness.
8. I accept the three assessors' unanimous guilty opinion on all counts and I find the accused guilty as charged on all counts. I convict him accordingly on those counts.
9. Assessors thanked and release.




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JUDGE

Solicitor for State
Solicitor for Accused

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Office of the Director of Public Prosecution, Suva.
Reddy & Nandan, Barristers & Solicitors, Suva.