

IN THE HIGH COURT OF FIJI AT SUVA

CASE NO: HAC. 201 of 2018

[CRIMINAL JURISDICTION]

STATE

V

TAIONE PETERO SENIKUTA

Counsel : Ms. S. Serukai for State
Ms. M. Ratidara for Accused

Hearing on : 28 January - 31 January 2019

Summing up on : 01 February 2019

Judgment on : 04 February 2019

(The name of the complainant is suppressed. The complainant will be referred to as "CS".)

JUDGMENT

1. The accused is charged with the following offence;

Statement of Offence

Rape: contrary to section 207 (1) and (2)(b) and (3) of the Crimes Act of 2009.

Particulars of Offence


TAIONE PETERO SENIKUTA, on the 29th of April, 2018 at Nadoi Village, Rewa, in the Central Division, penetrated the vulva of CS, who is a child under the age of 13 years old, with his finger.

2. The assessors have returned with the unanimous opinion that the accused is guilty of the offence as charged.
3. I direct myself in accordance with the summing up delivered to the assessors on 01st February 2019 and the evidence adduced during the trial.
4. The prosecution led evidence of three witnesses and the defence called two witnesses including the accused.
5. In my assessment, the complainant was a credible and a reliable witness. The account she gave regarding what the accused did to her was consistent. I found her answers to be genuine and truthful.
6. I accept the medical opinion provided by the second prosecution witness. However, the complainant had been examined by her about one week after the date of the alleged incident. The medical opinion only confirms that the complainant's vulva had been penetrated with a foreign object within 15 days prior to the date of medical examination which is 07/05/18. The date of the alleged offence falls during this period.
7. The third prosecution witness was one of the investigating officers. However, her evidence was not relevant to any of the facts in issue in this case.
8. In my judgment, the accused was not a truthful witness. His version of events and that of the second defence witness were not consistent. In fact the evidence of the second defence witness was consistent with the account given by the complainant.
9. Given the complainant's evidence, I am satisfied beyond reasonable doubt that the accused penetrated her vulva with his finger. It was an admitted fact that the

complainant was below the age of 13 years at the material time. Therefore, I am satisfied that the prosecution has proven the offence of rape beyond reasonable doubt.

10. I concur with the unanimous opinion of the assessors. I find the accused guilty of the offence of rape as charged and convict him accordingly.




Vincent S. Perera
JUDGE

Solicitors:

**Office of the Director of Public Prosecutions for the State
Legal Aid Commission for the Accused**