

**IN THE HIGH COURT OF FIJI**  
**AT LABASA**  
**CRIMINAL JURISDICTION**

**CRIMINAL CASE NO.: HAC 58 of 2018**

**BETWEEN:** STATE

**PROSECUTION**

**AND:** PETARIKI LESUMA

**ACCUSED PERSON**

**Counsel:** Ms. L. Bogitini for State  
Ms. K. Boseiwaqa for Accused

**Hearing Date:** 17 June 2019

**Summing Up:** 18 June 2019

**Judgment:** 19 June 2019

**JUDGMENT**

*The complainant's name is suppressed.*

1. The accused is being charged with one count of Rape, contrary to Section 207 (1) and (2) (a) of the Crimes Act. The particulars of the offence are that;

*Statement of Offence*

**RAPE:** *Contrary to section 207 (1) and (2) (a) of the Crimes Act 2009.*

*Particulars of Offence*

***PETARIKI LESUMA*** on 11 June 2018, at Savusavu in the Northern Division, penetrated the vagina of ***M.V.***, with his penis, without her consent.

2. The hearing commenced on the 17th of June 2019 and concluded on the same day. The prosecution presented the evidence of the complainant and the accused opted to exercise his right to remain silence. The learned counsel for the prosecution and the defence then made their respective closing addresses. Subsequently, I delivered my summing up.
3. The three assessors in their opinions unanimously found the accused guilty of Rape as charged.
4. Having carefully considered the evidence presented during the hearing, the respective closing addresses of the counsel, the summing up and the opinion of the assessors, I now proceed to pronounce my judgment as follow.
5. The prosecution alleges that the accused in the pretext of discussing about the relationship of the complainant and her boyfriend, started a conversation with the complainant on the night of 11th of June 2018. He then took the complainant to the bedroom and asked if he could hug her. The complainant did not say anything, but started to cry. The accused then hugged her. Thereafter, the accused kissed the lips of the complainant and sucked her breast. He had pressed his penis on the vagina of the complainant on the top of her short. He had then removed the short and undergarment of the complainant and inserted his penis into her vagina without her consent.
6. The accused admitted every events that have taken place up to the allegation of insertion of his penis into the vagina of the complainant in the admitted fact. The accused denies that he penetrated into the vagina of the complainant with his penis. Therefore, the main issues that the court has to determine is whether the accused inserted his penis into the vagina of the complainant without her consent.
7. The complainant has not shouted or alarm the others who were sleeping in the house when this incident took place. She was afraid that the accused might have a knife or something and would do something to her if she tries to shout or alarm others. She had tried to push the accused when he tried to insert his penis into her vagina. Moreover, she had cried when this incident was taking place. The complainant said that she did not go

out and informed her grandfather, who was sleeping in the living room, after this incident took place as she knew the accused was still in the living room. I accept the explanation given by the complainant.

8. I observed the way and the manner the complainant gave evidence, where she was coherent, straight and maintains the consistency during the course of giving her evidence.
9. In view of these reasons, I accept the evidence given by the complainant as reliable, credible and truthful evidence. Therefore, I do not find any cogent reasons to disagree with the unanimous option of guilty given by the three assessors. Accordingly, I am satisfied that the prosecution has successfully proven beyond reasonable doubt that the accused has committed this crime as charge.
10. In conclusion, I find the accused guilty of rape contrary to Section 207 (1) and (2) (a) of the Crimes Act and convict to the same accordingly.



R.D.R.T. Rajasinghe  
Judge

**At Labasa**  
19 June 2019

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