

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**[CRIMINAL JURISDICTION]**

**CRIMINAL CASE NO. HAC 22 OF 2019**

**BETWEEN** : STATE

**AND** : LAISENIA MIKAELE

**Counsel** : Ms S Sharma for the State  
Ms T Kean with Ms S Prasad for the Accused

**Date of Hearing** : 3 - 4 September 2019

**Date of Summing Up:** 5 September 2019

**Date Judgment** : 5 September 2019

**JUDGMENT**

- [1] After deliberating for more than one hour, the assessors have returned with a unanimous opinion that the Accused is not guilty of sexual assault as charged on count one and not guilty of rape as charged on counts two and three. They have clearly believed the account of the Accused that the alleged sexual acts if it occurred were consensual and rejected the account of the complainant that the Accused used force.
- [2] I direct myself in accordance with my summing up. The evidence of the complainant that the Accused committed the alleged sexual acts using force and without her consent is not consistent with the complaint she made to her aunty and mother.

- [3] When the Accused gave evidence, he struck me as an honest and reliable witness. His account is consistent with the account he gave to police under caution. I believe his evidence that he was having a secret intimate relationship with the complainant and that he had consensual sexual intercourse with her inside a vacant house in the village. The Accused's evidence has created a doubt in my mind whether the account given by the complainant is true. The Accused is entitled to the benefit of doubt.
- [4] The prosecution has not satisfied the guilt of the Accused on all three charges beyond reasonable doubt.
- [5] I accept the unanimous opinions of the assessors and find the Accused not guilty of all three charges. Accordingly, he is acquitted.



A handwritten signature in blue ink, appearing to be "DG", is written above a horizontal dotted line.

**Hon. Mr Justice Daniel Goundar**

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