

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**CRIMINAL JURISDICTION**  
**CRIMINAL CASE NO. HAC 134 OF 2019S**

**STATE**  
**Vs**  
**TIMI RATINI**

**Counsels : Ms. M. Konrote for State**  
**Ms. S. Hazelman and Ms. L. Filipe for Accused**

**Hearings : 23 and 24 September, 2019.**

**Summing Up : 26 September, 2019.**

**Judgment : 26 September, 2019.**

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**JUDGMENT**

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1. The three assessors had returned with their opinion. Assessor No. 1 and 3 found the accused not guilty as charged on count no. 1 and 2. Assessors No. 2 found the accused guilty as charged on count no. 1, but not guilty as charged on count no. 2. All three assessors were unanimous on count no. 2, finding the accused not guilty as charged on count no. 2, which is rape.
2. Obviously, the three assessors had not accepted the prosecution's version of events on count no. 2 (rape).
3. I have reviewed the evidence called in the trial and I have directed myself in accordance with the summing up I gave the assessors today.

4. On count no. 2 (rape), I agree with the three assessors' opinion. In her evidence, the complainant (PW1), at first said, she was raped by the accused. Later when cross-examined and re-examined, she said she consented to sex with the accused at the material time. Her evidence was thus inconsistent. Analyzing all her evidence together and looking at it in totality, it appeared to me she consented to sex with the accused, at the material time. I therefore find the accused not guilty as charged on count no. 2. I agree with the three assessors' opinion.
5. On count no. 1, Assessor No. 1 and 3 found accused not guilty, while Assessors No. 2 found accused guilty as charged. On the evidence, I agree with Assessors No. 2. I accept the complainant's evidence that she was assaulted by the accused at the material time and her medical report (Prosecution Exhibit No. 2) supported her position. PW2, the doctor confirmed her injuries as recorded in the medical report. I accept the prosecution's case on count no. 1 (assault) and find the accused guilty as charged.
6. Given the above, I agree with the three assessors on count no.2 (rape) and find the accused not guilty as charged. I acquit him of the rape charge.
7. On count no. 1 (assault), I agree with Assessor No. 2, the minority, and find the accused guilty as charged. I convict him accordingly on count no. 1.
8. Assessors thanked and released.



**Solicitor for the State**  
**Solicitor for the Accused**

**:** **Office of the Director of Public Prosecution, Suva.**  
**:** **Legal Aid Commission, Suva.**

**Salesi Temo**  
**JUDGE**