

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO.: HAC 101 OF 2019

STATE

V

EMONI CAVUTU

Counsel : Ms. W. Elo for State
: Ms. L. Manulevu for Defence

Dates of Trial : 3, 4, 5 November 2020

Date of Summing-Up : 6 November 2020

(Name of the Complainant is suppressed. She is referred to as SS)

SUMMING-UP

Madam and Gentleman Assessors:

1. We have now reached the final phase of this case. The law requires me, as the Judge who presided over this trial, to sum- up the case to you. Each one of you will then be called upon to deliver your separate opinion, which will in turn be recorded. As you listened to the evidence in this case, you must also listen to my Summing-Up of the case very carefully and attentively. This will enable you to form your individual opinions as to the facts in accordance with the law with regard to the innocence or guilt of the accused person.
2. I will direct you on matters of law which you must accept and act upon. On matters of facts however, which witness you consider reliable, which version of the facts to accept or reject, these are matters entirely for you to decide for yourselves. So, if I express any opinion on the facts of the case, or if I appear to do so, it is entirely a matter for you whether to accept what I say, or form your own opinions.
3. In other words, you are the judges of facts. All matters of fact are for you to decide. It is for you to decide the credibility of the witnesses and what parts of their evidence you accept as true and what parts you reject.
4. The counsel for the Prosecution and the Defence made submissions to you about the facts of this case. That is their duty as the Counsel. But it is a matter for you to decide which version of the facts to accept, or reject.
5. You will not be asked to give reasons for your opinions. Your opinions need not be unanimous although it is desirable if you could agree on them. I am not bound by your opinions. But I will give them the greatest weight when I come to deliver my judgment.
6. On the matter of proof, I must direct you as a matter of law, that the accused person is innocent until he is proved guilty. The burden of proving his guilt on each count rests on the prosecution and never shifts.

7. The standard of proof is that of proof beyond reasonable doubt. This means that before you can find the accused guilty, you must be satisfied so that you are sure of his guilt. If you have any reasonable doubt as to his guilt, you must find him not guilty.
8. Your opinions must solely and exclusively be based upon the evidence which you have heard in this Court and upon nothing else. You must disregard anything you might have heard or read about this case outside of this courtroom. Your duty is to apply the law as I explain it to you to the evidence you have heard in the course of this trial. Approach the evidence with detachment and objectivity. Do not get carried away by emotion.
9. Your duty is to find the facts based on the evidence and apply the law to those facts. You are free to draw inferences from proved facts if you find those inferences reasonable in the circumstances.
10. As assessors you were chosen from the community. You, individually and collectively, represent a pool of common sense and experience of human affairs in our community which qualifies you to be judges of facts in a trial. You are expected and indeed required to use that common sense and experience in your deliberations and in deciding.
11. In assessing the evidence, you are at liberty to accept the whole of the witness's evidence or part of it and reject the other part or reject the whole. In deciding on the credibility of a witness, you should take into account not only what you heard but what you saw. You must take into account the demeanour or the manner in which the witness gives evidence. You are to ask yourselves, was the witness honest and reliable. But, please bear in mind that many witnesses are not used to giving evidence and may find court environment distracting.
12. In evaluating evidence, you should see whether the story relayed in evidence is probable or improbable; whether witness is consistent in his or her own evidence and with his or her previous statements or with other witnesses who have given evidence in court. It does

not matter whether that evidence was called for the Prosecution or for the Defence. You must apply the same test to evaluate evidence.

13. If it is shown to you that there is an inconsistency, a contradiction or an omission, you must be satisfied that such inconsistency or contradiction is material and significant so as to affect the credibility or whether it is only in relation to some insignificant or peripheral matter. If it is shown to you that a witness has made a different statement or given a different version on some point, you must then consider whether there is an acceptable explanation for the inconsistency and whether such variation was due to loss of memory, faulty observation or due to some incapacitation of noticing such points given the mental status of the witness at a particular point of time or whether such variation has been created by the involvement of some another, for example by a police officer, in recording the statement where the witness is alleged to have given that version.
14. Merely because there is a difference, a variation or a contradiction or an omission in the evidence on a particular point or points that would not make witness a liar. You must consider overall evidence of the witness, the demeanour, the way he/she faced the questions etc. in deciding on a witness's credibility.
15. When you evaluate evidence of a witness, you should take into account his or her intellectual capabilities, personal circumstances, level of education and maturity. Try to look at things from his or her perspective. Some people do not have the same standards of logic and consistency, and their understanding may be severely limited for a number of reasons, such as immaturity.
16. You should consider whether there is a delay in making a complaint to someone or to an authority or to police on the first available opportunity about the incident that is alleged to have occurred. If there is a delay that may give room to make-up a story, which in turn could affect reliability of the story. If the complaint is prompt, that usually leaves no room for fabrication. If there is a delay, you should look whether there is a reasonable explanation for such delay.

17. Bear in mind, a late complaint does not necessarily signify a false complaint, any more than an immediate complaint necessarily demonstrates a true complaint. There can be a reasonable explanation for the delay. It is a matter for you to determine whether, in this case, the lateness of the complaint and what weight you attach to it. It is also for you to decide, when complainant did eventually complain, whether it was genuine.
18. I now wish to direct you on recent complaint evidence. You heard that the complainant say that she complained to Vatiseva about the alleged incidents. Vatiseva gave evidence and said that she received a complaint from the complainant on 1 March 2019. However, Vatiseva was not present during the alleged incident and therefore, she is not capable of giving evidence as to what actually happened between the complainant and accused. What she heard from the complainant is not evidence as to what actually happened between the complainant and the accused. Recent complaint evidence is led to show consistency in the conduct of the complainant and is relevant in assessing her credibility. If you find Vatiseva a credible witness, than you may use the complaint she received to test the consistency and credibility of the Complainant.
19. In evaluating evidence, you should consider whether there is a motive on the part of the complainant to make-up an allegation against the accused. If the complainant had such a motive, then you might think that this allegation has been fabricated.
20. Proof can be established only through evidence. Evidence can be from direct evidence that is the evidence of a person who saw it or by a complainant who saw, heard and felt the offence being committed. In this case, for example, the complainant was a witness who offered direct evidence as to what she saw, heard and felt.
21. Documentary evidence is evidence presented in the form of a document. In this case, the record of caution interview is an example if you believe that such a record was made. You can take into account the contents of this document if you believe that the answers

contained in it were given by the accused and that in those answers the accused told the truth.

22. Interviewing officer Inoke Kuru read the record of caution interview of the accused. I am now going to direct you as to how you should approach caution statement in evidence. The Defence challenges the truthfulness of the caution interview. Defence says that interviewing officer never asked certain questions which it highlighted and the police officers fabricated the answers to those questions. It is for you to assess what weight should be given to the answers given by the accused in his caution interview. It is your duty to consider the caution statement as a whole and other evidence led in trial in deciding where the truth lies. If you are sure, that the accused had given those answers and that he had told the truth to police you may rely on those answers. If, on the other hand, you are not sure for whatever reason that the accused had never given those answers or he had not told the truth, you may not rely on those answers.

23. A screen was set-up in front of the accused so that the complainant, while being in the witness box, could not see the accused. That was done because the complainant in this case is a child thus a vulnerable witness. You must not draw any negative inference against the accused from that.

24. The Prosecution and the Defence have agreed on certain facts. The agreed facts are part of evidence. You should accept those agreed facts as accurate and truth. Agreed facts in this case are that:
 1. The complainant is SS.
 2. Emoni Cavutu is 60 years old and he resides at Wailea Settlement, Vatuwaqa.
 3. Emoni Cavutu is currently charged with 1 count of Rape and 3 counts of Sexual Assault as per the Information filed on 7th May 2019.
 4. The complainant is originally from Nairukuruku Village, Naitasiri.

5. At the beginning of 2019, the complainant came to reside with her aunt, Mini Sikote and her uncle Emoni Cavutu.
 6. Mini Sikote is the complainant's paternal aunt and Emoni Cavutu is the complainant's paternal uncle.
 7. The complainant came to stay with them so she could attend high school – Nabua Secondary School.
 8. The accused was caution interviewed on 7th March 2019.
25. I have given you a copy of the information which contains the charges against the accused. Please refer to it. The information reads as follows:

COUNT ONE

Statement of Offence

SEXUAL ASSAULT: Contrary to Section 210(1) (a) of the Crimes Act 2009.

Particulars of Offence

EMONI CAVUTU on the 20th day of February 2019 at Vatuwaqa, in the Central Division, unlawfully and indecently assaulted **SS** by touching her breast.

COUNT TWO

Statement of Offence

SEXUAL ASSAULT: Contrary to Section 210 (1) (a) of the Crimes Act 2009.

Particulars of Offence

EMONI CAVUTU on the 20th day of February 2019 at Vatuwaqa in the Central Division, **on an occasion other than that mentioned in Count 1** unlawfully and indecently assaulted **SS** by touching her breast.

COUNT THREE

SEXUAL ASSAULT: Contrary to Section 210 (1) (a) of the Crimes Act 2009.

Particulars of Offence

EMONI CAVUTU on the 21st day of February 2019 at Vatuwaqa in the Central Division unlawfully and indecently assaulted **SS** by touching her breast.

COUNT FOUR

Statement of Offence

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

Particulars of Offence

EMONI CAVUTU on the 21st day of February 2019 at Vatuwaqa, in the Central Division, penetrated the vagina of **SS** with his finger, without her consent.

COUNT FIVE

Statement of Offence

SEXUAL ASSAULT: Contrary to Section 210 (1) (a) of the Crimes Act 2009.

Particulars of Offence

EMONI CAVUTU between 1st day of February and the 28th day of February 2019, **on an occasion other than that mentioned in Count 1, Count 2 and Count 3** at Vatuwaqa in the Central Division, unlawfully and indecently assaulted **SS** by touching her breast.

26. On counts 1, 2, 3 and 5, the accused is charged with Sexual Assault. There are four counts of Sexual Assault and you must consider evidence against each count separately.

27. I will now deal with the elements of the offence of Sexual Assault. The Prosecution must prove beyond reasonable doubt that the accused, unlawfully and indecently assaulted the complainant. You have to be satisfied that the assault was intentional on the part of the accused and not mere accidental. The word "*unlawfully*" simply means without lawful excuse. For the assault to be indecent it must be accompanied by a circumstance of indecency. Conduct is indecent when it is as such that ordinary people would so describe it, in light of prevailing standards of morality and, more specifically, in light of whether the complainant has consented to the conduct in question.
28. On count 4 the accused is charged with Rape. I will now deal with the elements of the offence of Rape in this case. In order to prove a charge of Rape in this case, the Prosecution must prove beyond reasonable doubt that the accused penetrated SS's or the complainant's vagina, with his finger. The slightest penetration is sufficient to satisfy this element.
29. A woman of over the age of 13 years is considered by law as a person with necessary mental capacity to give consent. The complainant in this case was over 13 years of age and therefore, she had the capacity to consent.
30. You must consider the important issue of consent. It must be proved that the accused either knew that she did not consent or was reckless as to whether she consented. The accused was reckless, if the accused realized there was a risk that she was not consenting but carried on anyway when the circumstances known to him it was unreasonable to do so. Determination of this issue is dependent upon who you believe, whilst bearing in mind that it is the prosecution who must prove it beyond reasonable doubt.
31. Apart from the elements of the offence, the identity of the person who is alleged to have committed the offence is very important. There must be positive evidence beyond reasonable doubt on identification of the accused-person that connects him to the offence that he is alleged to have committed. If you are satisfied beyond a reasonable doubt that

the accused penetrated the complainant's vagina with his finger without her consent then you may find him guilty of Rape.

32. Please remember, there is no rule in Fiji for you to look for corroboration of complainant's story to bring home an opinion of guilt in a case of sexual nature. The case can stand or fall on the testimony of the complainant, depending on how you are going to look at her evidence.
33. I will now remind you of the Prosecution and Defence cases. It was a short trial and I am sure things are still fresh in your minds. I will refresh your memory and summarize the salient features. If I do not mention a particular piece of evidence that does not mean it is unimportant. You should consider and evaluate all the evidence in coming to your decision in this case.

Case for Prosecution

PW1 - SS (The Complainant)

34. SS is now 16 years old. She said that she was born on 23/07/2004 and had been residing at Nairukuruku, Naitasiri since her birth. In early 2019, she, on her grandmother's invitation, moved to her uncle Emoni Cavutu and his family in Vatuwaqa because her stepmother did not like her.
35. In February 2019, when she was attending Nabua Secondary School. She was suffering from asthma, so she did not attend school for 3 weeks and went back to the village in Naitasiri. She came back to Vatuwaqa to resume schooling in the third week of February.
36. On that week, she left school half day and met her uncle Emoni at Nabua bus stand where he insisted that she go with him in a cab and on the way he suggested they go for a swim in the sea but she refused. When she reached home, she was scared because of the way

her uncle acted. He winked at her and rubbed his finger across his neck. She felt that he wanted something from her.

37. Upon her arrival at home, she went to take a shower at the bathroom which is located outside the house. When she was in the bathroom, she could feel that somebody was spying on her. When she finished her shower, she heard a person knocking on the door. When she opened the door, she saw uncle Emoni in front of the door. He obstructed her movements and did not allow her to go out. When she tried to escape through the small space, **he squeezed her breast with both of his hands**. She was wearing just a towel. She was angry. She cried. She could not believe that her uncle will do this to her. She did not scream for help because she was scared. She did not want anybody to know this because she had heard from her grandmother that if anything like would happen, they will seek apology, and will never report to the police.
38. When she woke up the next day, she went to have breakfast. Uncle Emoni came to have breakfast and he was signaling and speaking in a lower tone said that, at night, when she was sleeping, he came to her and was touching her. She was scared, and angry. She did not tell anyone because she was scared. When she reached school, she tried several ways to escape from where she was staying but the bus card was empty so she came back to Vatuwaqa. When she reached home, she went to sleep, thinking of ways to escape from home.
39. The next morning, when she came outside to wash her face, she saw her cousin holding onto her baby. Her cousin gave her the baby for a few minutes and went inside the house when uncle Emoni came out. He asked her if he could carry the baby. Then she gave him the baby. **Whilst she was giving the baby to him, his hands touched her breast on top of her t-shirt**. He was laughing at her. She was scared, afraid and angry. She was scared to tell this to somebody else.

40. She went to school and was scared to go back home. But she had to go back because, at Nabua bus stand, she did not find anyone who could help her to escape. When she reached home, she told aunty that she was sick and went to bed. She did not go to school for the rest of the days of the week because she was sick.
41. Her aunty wanted her to be taken to hospital but uncle said 'no' and said that he can massage her. Then he started massaging her body starting from her back. She had taken off her t-shirt and was wearing only the bra at that time. He then started touching the front part of her body, chest and her breasts. **He squeezed her breasts.** She was scared, angry and sad. She did not tell this to her aunty because he had told her that if she did tell anybody, he might do something to her.
42. Then he asked her to lie down for him to massage her stomach. She told him to stop, but he insisted that he should massage her stomach as it had a lot of cold. He told her to lie down sideways. Then he massaged her legs. She felt weak and fell asleep. She woke up when she realized that her vagina was paining. She saw uncle Emoni sitting down laughing at her. **He was inserting his finger inside her vagina.** She was so sad. She was scared and did not call out to her aunty. She could not believe that her uncle would do this nasty thing to her.
43. She just wanted to run away from him. She tried to look for her aunty to tell her of what he had done to her. She couldn't find her aunty. Then she went back to her bed to lie down. When she was lying down, aunty came and asked for her to go to hospital as she was still sick. Then uncle Emoni told that he will take her to the hospital. He then took her to Raiwaqa hospital.
44. After the check-up, they came home in a taxi with her cousin whom they had met at the bus stop. Upon her arrival, she wore warm clothes and lied down. When she woke up in the midnight, **she saw uncle Emoni standing beside her, touching her breasts.** He inserted his hands inside her clothes to touch her breasts. She recognized the uncle from

the dim light coming from the light in the middle of the house. She was ashamed and crying.

45. She woke up early in the next morning, and went to school without telling anyone of what had happened. Since she forgot her social science books, she turned around to get it. She saw uncle Emoni holding on to the book. When she asked him for the book, he did not give it. Then he pushed her breasts up with the book and then gave it to her. She was so angry at him for what he had done to her.
46. When she was at the Vatuwaqa bus stand, waiting for the bus to school, she met her cousin Mereseini. She asked Mereseini if she could go with her to her house to spend the weekend. They met each other in the same afternoon and went to Mereseini's place at Delaivalelevu. She spent the weekend at Mereseini's place and, on Monday, Mereseini's mother Vatiseva told Mereseini to drop her back at Vatuwaqa. When they reached town, she told Mereseini that she did not want to go back to Vatuwaqa. When Mereseini asked the reason, she said that her uncle always harassed her while she was sleeping.
47. When they came back to Delaivalalevu, Vatiseva questioned her as to why she wasn't able to go back to Vatuwaqa. Then she told Vatiseva that her uncle was harassing her and touching her breasts. Then Vatiseva called her father. Her father told Vatiseva to take the matter to police. Vatiseva reported the matter to the police and she was medically examined.
48. Under cross- examination, SS agreed that the school term for 2019 started from 14th of January and that the 6th week of school was from the 18th of February to the 22nd of February. She admitted that she had told police that she went and boarded the bus and her uncle came walking later. She admitted that her statement to police in this regard is different from what she said in her evidence. She agreed that from lines 15 to line 25 in page 4 of her statement, there is nothing mentioned about the alleged incident that her uncle was touching or squeezing her breast when he was waiting outside the bathroom.

She agreed that she never informed her aunt Mini Sikote or her cousins of what her uncle had allegedly done to her on that day.

49. SS denies the proposition that she had never informed anyone because it had never happened. She denies that when she had given the baby to her uncle, his fingers had just brushed against her breast. She agreed that her uncle had suggested for her to be massaged because the hospital was still closed in the morning. She denied that when she was being massaged, her aunt and cousins were also present. She denied that her uncle had massaged only her chest and the shoulders. She agreed that when she felt the pain in vagina, she never screamed or informed her aunt that her uncle inserted his finger into her vagina. She said that she went to hospital with her uncle because her aunt wanted her to do so. She denied the proposition that the reason why she did not tell the alleged incidents to her aunt, cousins, doctor or teacher because it never happened. She agreed that since her uncle's house is a small house, if she screamed, everyone in that house would have heard her.

50. She admitted that she had lied to her aunt that she was sick because she came home late just sitting around at the bus stop. She did not agree that her aunt Mini Sikote was very strict with her.

51. Under re-examination, SS said that she had informed the police about the incident outside the bathroom where her uncle had squeezed her breast. She explained that this incident happened on the same day when she had returned home with her uncle after buying timber.

52. PW-2 Vatiseva

In 2019, Vatiseva was residing in Delaivalalevu. She said that on 1 March 2019, her daughter Mereseini came home after school with SS. It was a Friday and SS said that she came to spend the weekend at her place. On Monday, SS and Mereseini went to school and SS was supposed to go back to her uncle's place at Vatuwaqa. But they had returned

home without going to school. Mereseini informed that SS had a story to tell. Then she made SS sit down and questioned her why she did not want to go back home. SS said that her uncle Emoni used to harass her and used to touch her breasts. After the family devotion she questioned SS again as to what her uncle had done to her. Then SS informed that, on one occasion, uncle Emoni, while massaging her, was touching her breast and that while she was having shower he used to knock on the bathroom door, and, on one occasion, when she was lying down with asthma, she felt uncle Emoni's hand inside her private part. SS said that she did not inform these to her aunty because she was sacred. She then called SS's aunty and informed what she heard from SS. She also called SS's father who told her to report the matter to police.

PW3- D/ Cpl. Inoke Kuru

53. In 2019, Inoke was based at Nabua Police Station. He was instructed to interview the accused Emoni Cavutu under caution. He, on 7 -8 March 2019, conducted the interview at the Crimes Office in the presence of the witnessing officer woman corporal Loraini. It was conducted in iTaukei language and recorded on a laptop. The accused signed each page of the record of interview which was countersigned by him and the witnessing officer. The record of interview was later translated into English. The witness tendered the original iTaukei version (PE1) and the English translation (PE2) which was read in evidence. He said that he put all 45 questions to the accused and all the answers in the recorded were given by the accused voluntarily. Rights were afforded to the accused. He did not receive any complaint from the accused before or during the interview. He denied that some of the answers were fabricated by police.
54. Under cross-examination, officer admitted that as per the original iTaukei version he had questioned the accused at Q39 that if he had inserted his finger into the SS's private part (yaya vakamarama) and not her vagina ("Maga"). He denied that questions 28, 30, 32, 33, 34, 37, 40, 41, 42, 43, 44 and 45 were never put to the accused and that the answers thereto were not given by the accused but made up by the police officers. He admitted that on day one of the interview he took only 50 minutes to ask 29 questions and on day

two he took 2 hours to ask only 15 questions. In his explanation the witness said that on day two the accused was given breaks but the same were not reflected in the record of interview due to a typing error. He admitted that the correct interpretation to the answer given to Q 39 as per the original iTaukei version should have been 'private part' and not 'vagina'.

PW 4 - WDC Loraini

55. Loraini said that she was assigned to be the investigating officer as well as the witnessing officer for the interview of the accused which was conducted by Inoke Kuru. Having perused the record of interview, Loraini confirmed that it is the true record of interview of the accused. She said that each page was signed by the accused during the interview, and that he read whilst it was being typed and, at the end of the interview, the accused was given an opportunity to read, add, alter or change anything after reading the record of interview. She said that she was present throughout the interview. The accused was given his rights and no complaint was received from the accused. She denied that some answers were fabricated by the interviewing officer and herself.
56. Under cross-examination, she denied that Questions 28, 30, 32, 33, 34, 37, 40, 41, 42, 43, 44 and 45 were never asked by the interviewing officer and that the answers to those questions were fabricated. She agreed that, according to the letter obtained from the principal of Nabua Secondary School, SS had been absent from school from 18- 22 February 2019.
57. That, is the case for the Prosecution.
58. At the close of the Prosecution's case, you heard me explain to the accused what his rights were in defence and how he could remain silent and say that the Prosecution had not proved the case against him to the requisite standard or he could give evidence in which case he would be cross-examined.

59. The accused elected to exercise his right to remain silent. You must not infer that the accused remained silent because he was guilty. He is under no obligation to prove his innocence or prove anything at all.

Analysis

60. Ladies and Gentleman assessor, you are called upon to express your opinion on five counts. You must consider evidence against each count separately.
61. The accused denies all the allegations. The Defence's case is that the complainant is not telling the truth. The resolution of the dispute depends on whether you could accept the evidence of the complainant as being credible and believable.
62. The Prosecution called four witnesses. Its case is substantially based on the evidence of the complainant. The Prosecution says that the child complainant told the truth in court. Vatiseva was called to show the consistency of the conduct of the complainant. The Prosecution also relies on the alleged confessions made by the accused to police at the caution interview. It says that all the answers were given by the accused and those answers were truthful statements of the accused.
63. The Prosecution also says that the complainant's subsequent conduct in making a complaint and her demeanour are consistent with her evidence that she was sexually assaulted and raped.
64. The Defence denies all the charges and says that the complainant did not tell the truth in Court. The Defence highlighted certain inconsistencies between complainant's evidence and her previous statement made to police. It was argued that the complainant was not consistent and not telling the truth. You decide if those inconsistencies are material enough to discredit the version of the complainant.

65. The Defence also argues that the subsequent conduct of the complainant is not consistent with her claim that she was sexually assaulted /raped. The complainant admits that she did not scream or complain to her aunty immediately and then to the cousins, doctor and teacher. She gave her explanations for her conduct. It was also argued by the Defence that it was not possible for the accused to commit those offences in the setting in which they are alleged to have been committed. It is for you to form your own opinion on those arguments.
66. The complainant was 14 years old at the time of the alleged incidents. You decide whether the complainant had a motive to make up these serious allegations against her uncle. Having considered the evidence led and, observed her demeanour, you decide if the complainant is telling the truth in Court.
67. The Defence says that the police officers fabricated the answers in the caution interview. The police witnesses deny this allegation. Having considered all the evidence led in trial, it is up to you to form your own opinion on that.
68. If you believe that the complainant is telling you the truth, then you must be satisfied that all the elements of each count have been proved beyond reasonable doubt. If you are sure that the accused deliberately touched or squeezed the breast/s of the complainant on each occasion alleged in the information you should find the accused guilty of sexual assault as charged although you may not be sure of the exact date on which that particular assault occurred. If you are sure that the accused penetrated the vagina of the complainant with his finger without her consent, you should find the accused guilty on count 4.
69. If you do not believe Prosecution's version of events regarding the alleged offences, or if you have a reasonable doubt about the guilt of the accused, then you must find the accused not guilty. Your possible opinion is either guilty or not guilty on each count.

70. You may now retire to deliberate on your opinions. Once you have reached your decisions, you may inform our clerks, so that we could reconvene, to receive the same.

71. Any re-directions?

A handwritten signature in black ink, appearing to read 'Aruna Aluthge', written in a cursive style.

Aruna | Aluthge

Judge

At Suva

6 November 2020

Solicitors: Office of Director of Public Prosecution for State
Legal Aid Commission for Defence