

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**CRIMINAL JURISDICTION**  
**CRIMINAL CASE NO. HAC 181 OF 2018S**

**STATE**  
**Vs**  
**KITIONE SOSICENI TOKALAU**

**Counsels** : **Ms. W. Elo for State**  
**Ms. M. Vateitei for Accused**  
**Hearing** : **17 February, 2020.**  
**Summing Up** : **18 February, 2020.**  
**Judgment** : **18 February, 2020.**

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**JUDGMENT**

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1. The three assessors had returned with a mixed opinion. Assessor No. 1 found the accused guilty as charged, while Assessors No. 2 and 3 found the accused not guilty as charged.
2. The majority of the assessors had not accepted the prosecution's version of events, while the minority had accepted the prosecution's version of events.
3. The above meant that the majority had a reasonable doubt on the truth or otherwise of the complainant's allegation.

4. I have reviewed the evidence called in the trial and I had directed myself in accordance with the Summing Up I delivered to the assessors today.
5. The majority and minority opinion of the assessors are not perverse. It was open to them to reach such conclusion on the evidence.
6. The law required the prosecution to prove the rape allegation against the accused beyond a reasonable doubt. Two assessors are not sure of the guilt or otherwise of the accused. One assessor is sure of the guilt of the accused.
7. The assessors' view represent the public's view and it must be treated with respect.
8. In my view, the complainant's story was put to the three assessors and two were not sure of whether or not it was credible. One was sure it was credible.
9. In my view, I have to go with the majority opinion. They were not sure of the guilt or otherwise of the accused. In the majority's view, there was a reasonable doubt in the accused's guilt. The prosecution was required to remove that doubt from all the assessors. In my view, the benefit of the doubt, as established by law, must go to the accused.
10. I accept the majority assessors' opinion. I find the prosecution had not proven the accused's guilt beyond a reasonable doubt. The benefit of that doubt must go to the accused. I find the accused not guilty as charged. He is acquitted accordingly.
11. 30 days to appeal.
12. Assessors, thanked and released.



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

: **Office of the Director of Public Prosecution, Suva.**  
: **Ms. M. Vateitei, Barrister & Solicitor, Suva.**



**Salesi Temo**  
**JUDGE**