

REGINA –V- PETER GOPALA

IN THE HIGH COURT OF SOLOMON ISLANDS  
(Mwanosalua, J)

CRIMINAL CASE NO. 264 OF 2014

Date of Judgment : 20 August 2015

*Ms. S. N. Ramosea with Ms. R. Olutimayir for the Crown  
Mr. L. Kwaiga with Mr. S. Valenitabua for the Accused.*

### JUDGMENT

1. The Accused is charged with one count of rape and one count of buggery under the Penal Code. The rape charge was laid under Section 136 of the Penal Code and the buggery charge was laid under Section 160 (a) of the Penal Code. The Accused pleaded not guilty to both charges when he was arraigned before the trial commenced.
2. There are agreed facts in this case. They are that the Accused is Mr. Peter Neingi Gopala. The Victim is Ms. N.D. The Victim was sixteen years old and the Accused was twenty-three years old at the time of the alleged offending on 25 December 2013, at the Ports Married Quarters in Honiara, on Guadalcanal.
3. There are two issues agreed by the Prosecution and the Defence for the court to decide in this case. They are: First whether the sexual intercourse was consensual? And the second is whether the Accused committed buggery?

4. The Victim is a mute. She gave evidence under oath via sign language. Her evidence was that she was sweeping the house when the Accused came along grabbed and drugged her into the toilet. He removed her shirt and trousers without her consent. He assaulted her and later had rectal and vaginal sexual intercourse with her without her consent. He then left her at the toilet when he out and went to Mbokona Height.
5. Ms Freda Tumu is the eldest sister of the victim. Her evidence is that after their breakfast on 25 December 2013, she needed the victim to wash the eating utensils. She was sitting outside their house when she saw the Accused leaving the toilet. She noted the Accused acting strangely, such as moving his hands around in a motion of picking up things. She called her younger brother, Sade Dola, to look for the victim.
6. Sade went to the Toilet and found the victim there. He told Freda Dola that the victim was crying at the toilet. They took the victim from the toilet who reported the incident to them. On hearing that, they and other relatives went after the Accused to Mbokona Height. He admitted the offending to them but ask them for time to pay compensation.
7. The Accused gave evidence under oath during the trial. His evidence is that he met the victim sweeping on his way to the toilet. He waved to her and went into the toilet. He did not shut the door. He was startled when she followed him into the toilet removing her shirt and trousers. He closed the lid of the toilet and sat own it. She then sat on his thighs and they had sexual intercourse. He said the victim made no complainant when they had sexual intercourse. He said their relationship began in June 2013. He denied

that she cried during the incident. He denied grabbing and pulling her to the toilet. And he denied committing buggery with her.

8. The record of interview (Exh. 1); the Medical Report on the Victim (Exh 2); the Album of Photographs (Exh. 3; and the Agreed facts with the issues (Exh. 4) were agreed by the Prosecution and the Defence.
9. The court questioned the Accused if he had sexual intercourse with the victim at any other place in the toilet room. His response was, he also had sexual intercourse with the victim on the concrete floor of the toilet.
10. I have listened to the testimony of the Victim and the Accused during the trial. The Victim told the court that the Accused assaulted her. She sustained external injuries on her neck and bruises on her left arm. These injuries can be seen in photographs 13, 14 and 15. According to the Medical Report there were also bruises on her left buttock. The vaginal examination revealed a 6 o'clock laceration at the vagina and some rugged lacerations between the libia minora and libia majora at the left side of the vagina. Further, there is a rugged laceration on the posterior of the hymen. The medical report showed that the hymen had already been broken.
11. On rectal examination, there was a deep cut at 12 o'clock position of the rectal canal. The size of this laceration was approximately 1 cm x 0.1 cm deep. Further, there was also a 6 o'clock rugged laceration measuring 0.5 cm x 0.5 cm being observed at the rectal canal.
12. The court believe and accept the evidence of the victim and disbelieve the evidence of the Accused. The Accused assaulted the victim which caused the injuries on her neck, her arm and her left buttock. These assaults clearly

destroyed his claims, that the Victim had an existing relationship with him which started in June 2013; and that the Victim approached him at the toilet while removing her shirt and trousers. This court does not believe his evidence as it is clearly false. He assaulted the Victim in order to silence and penetrate of her with his penis. He forced the Victim to have sexual intercourse with him without her consent. She sustained lacerations to her vagina and rectum. They are caused by blows from a blunt object<sup>1</sup>. That object is none other than the penis of the Accused. The Accused is accordingly convicted of rape and beggary as charged in the information filed against him.

THE COURT

---

<sup>1</sup> See Lawyer's Guide to forensic medicine by Bernard Knight.p.48.