

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 238 OF 2011S

STATE

VS

APENISA MUAVESI

Counsels : **Ms. A. Vavadakua for the State**
Ms. V. Tamanisau for Accused

Hearings : **27th and 28th May, 2013**

Summing Up : **30th May, 2013**

Judgment : **30th May, 2013**

JUDGMENT

1. The assessors have returned with a unanimous verdict of not guilty as charged on both counts of rape against the accused.
2. Obviously, the three assessors have not accepted the prosecution's version of events. It appeared they have found that the prosecution had not proven its case beyond a reasonable doubt.
3. I have directed myself in accordance with the Summing Up I delivered to the assessors today.

4. I have also reviewed the evidence called in the trial.
5. In my view, the assessor's verdict was not perverse.
6. It was open to them to reach such conclusion on the evidence.
7. It is the judge's duty to listen to the view of the community when it comes to a conflict of the version of events between the complainant and the accused.
8. In this case, the assessor's verdict is not binding on me. However, on a careful assessment of the case, I am prepared to accept their unanimous Not Guilty verdict on both counts and give the accused the benefit of the doubt.
9. I accept the assessor's verdict and I find that the prosecution has not proven its case against the accused beyond a reasonable doubt.
10. I find the accused Not Guilty as charged on both counts and I acquit him accordingly on those counts.

Salesi Temo
JUDGE

Solicitor for the State : **Office of the Director of Public Prosecutions, Suva**
Solicitor for Accused : **Legal Aid Commission, Suva**