



Colo-i-Suva, in the Central Division, had unlawful carnal knowledge of a female namely **L. V.** without her consent.

2. On 1<sup>st</sup> March 2012, in a 70 pages ruling, the Learned Resident Magistrate found the accused had no case to answer, at the end of the prosecution's case. The State sought leave to appeal out of time and also appeal the above decision.
3. On 19<sup>th</sup> April 2013, the High Court allowed the State's applications, and quashed the Learned Resident Magistrates decision, and directed that the matter be referred to the High Court for trial. The applicants were not happy with the above, and have appealed to the Court of Appeal. Their appeal is now pending in the Court of Appeal.
4. On 15<sup>th</sup> May 2013, the applicants filed a notice of motion and affidavit in support, in the High Court, seeking an order that the High Court stay its decision of 19<sup>th</sup> April 2013, pending the decision of the Court of Appeal, in the matter. Both parties have filed written submissions on the matter, and I have carefully considered the same, including other papers filed in the case.
5. In my view, a stay proceeding is an exceptional remedy, and will only be used if other remedies are not available to deal with the justice of the case. Of course, the decision of the Court of Appeal will be given on this case, as and when the Court of Appeal decides. Consequently, the High Court Criminal proceeding in HAC 196 of 2013S, will have to await the decision of the Court of Appeal. It is for that reason; the proceeding will be adjourned until the Court of Appeal makes its decision. Granting a stay order is not appropriate, and thus the applicants' application for the same is denied.
6. Case is therefore adjourned to 26<sup>th</sup> September 2014 at 10 am, to await the Court of Appeal decision. If a decision is not ready by then, the matter will be further adjourned to await the decision. Parties are at liberty to recall the case, at 3 days notice, if any significant matter arises. In the meantime, the High Court bail conditions remain. I order so accordingly.

**Salesi Temo**  
**JUDGE**

**Solicitor for Applicant** : **Mehboob Raza & Associates, Suva.**  
**Solicitor for Respondent** : **Office of the Director of Public Prosecution, Suva.**