

**IN THE HIGH COURT OF FIJI**  
**AT LAUTOKA**  
**CRIMINAL JURISDICTION**

**CRIMINAL CASE NO.: HAC 32 OF 2013**

STATE

-v-

PENAIA RATU

**Counsels** : Mr. A. Singh for the State  
Ms. M. Tarai for the accused

**Date of Trial** : 21 November - 25 November 2013

**Date of Summing Up** : 25 November 2013

**Date of Judgment** : 26 November 2013

(Name of the victim is suppressed. She will be referred to as SL)

**JUDGMENT**

1. The Accused is charged under following count:

**COUNT 1**

***Statement of Offence***

**RAPE**: Contrary to Section 207 (1) and (2) (b) and (3) of the Crimes Decree No. 44 of 2009

***Particulars of Offence***

**PENAIA RATU**, on the 13<sup>th</sup> day of February 2013 at Tavua in the Western Division, inserted his finger into vagina of SL, aged 4 years and 6 months.

2. The three assessors unanimously found accused Not Guilty of the above count.
3. Obviously, the three assessors have not accepted the prosecution's version of events. It appeared that they have found the prosecution had not proven its case beyond a reasonable doubt.
4. I direct myself in accordance with the law and the evidence which I discussed in my summing up to the assessors.
5. In my view, the assessor's verdict was not perverse. It was open for them to reach such conclusion on the evidence.
6. It is Judge's duty to listen to the view of the community when it comes to a conflict of version of events.
7. In this case, the assessor's verdict is not binding on me. However, on careful assessment of the case, I am prepared to accept their unanimous Not Guilty verdict on the count of Rape and give the accused benefit of the doubt.
8. I accept the assessor's verdict and I find that the prosecution has not proven its case against the accused beyond reasonable doubt.
9. I find the accused Not Guilty as charged on the count and acquit him accordingly of that count.
10. This is the Judgment of the Court.

Sudharshana De Silva  
**JUDGE**

**At Lautoka  
26<sup>th</sup> November 2013**

**Solicitors : Office of the Director of Public Prosecution  
Legal Aid Commission for the Accused**