

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

**CRIMINAL CASE NO: HAC 034/2013**

**BETWEEN** : **THE STATE**  
**AND** : **ESEROMA VAKACEGU**  
**COUNSEL** : **Ms L Latu for the State**  
: **Ms N Nawasaitoga for the Accused**  
**Dates of Trial** : **03-05/03/2014**  
**Date of Summing Up** : **06/03/2014**  
**Date of Judgment** : **07/03/2014**

[Name of the victim is suppressed. She will be referred to as U.T]

**JUDGMENT**

[01] The Director of Public Prosecution had preferred the following charges against the above named accused.

**FIRST COUNT**

**Statement of Offence**

**ABDUCTION OF YOUNG PERSON:** Contrary to Section 285 of the Crimes Decree 44 of 2009.

**Particulars of Offence**

**ESEROMA VAKACEGU**, on the 18<sup>th</sup> day of January 2013 at Suva in the Central Division, unlawfully took U.T, being under the age of 18 years, out of the possession and against the will of the father.

**SECOND COUNT**

**Particulars of Offence**

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

**ESEROMA VAKACEGU**, on the 18<sup>th</sup> day of January 2013 at Suva in the Central Division penetrated the mouth of U.T, with his penis, without her consent.

**THIRD COUNT**

**Particulars of Offence**

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

**ESEROMA VAKACEGU**, on the 18<sup>th</sup> day of January 2013 at Suva in the Central Division had carnal knowledge of U.T, without her consent.

[02] The assessors have expressed unanimous opinion that the accused is guilty of 1<sup>st</sup> and 3<sup>rd</sup> counts. For 2<sup>nd</sup> count the gentlemen assessors expressed majority opinion of guilty, while madam assessor returned with not guilty verdict. The unanimous opinion of guilty verdict in respect of 1<sup>st</sup> and 3<sup>rd</sup> counts and majority verdict of 2<sup>nd</sup> count are completely tenable on the basis of evidence considered in accordance with the legal directions that have been made.

[03] The accused, pretending that he was taking the victim to the Ministry of Education (Marela House) took the victim to Sunset Motel and committed rape on her against her will. The incident happened on 18/01/2013. The accused got friendly with the victim through Facebook.

- [04] The accused giving evidence in court admitted that he took the victim to Sunset Motel on 18/01/2013 and requested for sex. Victim refused his request as she had her monthly period. Accused denied that he had sex with the victim forcibly.
- [05] The doctor who examined the victim stated that she observed a fresh tear at 6 o'clock position in the victim's vagina.
- [06] I have considered and evaluated the evidence, applying legal principles contained in my summing-up to the assessors.
- [07] It is also my decision that the accused is guilty of the charges of Abduction and Rape (two counts).
- [08] The judgment of this court is that the accused is guilty of the charges of Abduction and Rape (two counts) of U.T He is convicted accordingly.

**P Kumararatnam**  
**JUDGE**

**At Suva**  
07/03/2014