

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

**Criminal Case Number HAC 021 of 2013**  
**(consolidated with HAC 017 of 2013)**

**STATE**

**-v-**

**PRAVIN SAMI**  
**SUMEET GOUNDAR**

Counsel: Mr. M. Vosawale for the State  
Mr. J. Reddy (with Mr. A. Chand) for the Defence

Dates of hearing: 7, 8 July 2014.

Date of Ruling: 9 July, 2014

---

**RULING**

**(No Case to Answer)**

---

1. The two accused face the following charges:

**COUNT ONE*****Statement of Offence***

**ABDUCTION OF A PERSON UNDER THE AGE OF 18 YEARS WITH INTENT TO HAVE CARNAL KNOWLEDGE:** Contrary to section 211 (1) of the

Crimes Decree No. 44 of 2009.

***Particulars of Offence***

**PRAVIN SAMI** on the 31<sup>st</sup> day of December, 2012 at Suva, in the Central Division, with intent that **NIKITA**, being unmarried and being under the age of 18 years, be unlawfully and carnally known by **PRAVIN SAMI**, took the said **NIKITA** out of possession and against the will of her father.

**COUNT TWO*****Statement of Offence.***

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

***Particulars of Offence***

**PRAVIN SAMI** on the 31<sup>st</sup> day of October 2012 at Nasinu in the Central Division, had carnal knowledge of **NIKITA** without her consent.

**COUNT THREE*****Statement of Offence***

**ABDUCTION OF A PERSON UNDER THE AGE OF 18 YEARS WITH INTENT TO HAVE CARNAL KNOWLEDGE:** Contrary to section 211 (1) of the

Crimes Decree No. 44 of 2009.

***Particulars of Offence***

**SUMEET GOUNDAR** on the 31<sup>st</sup> day of December, 2012 at Suva, in the Central Division with intent that

**KESAIA WATI** being unmarried and being under the age of 18 years, be unlawfully and carnally known by **SUMEET GOUNDAR**, took the said **KESAIA WATI** out of possession and against the will of her father.

**COUNT FOUR**

***Statement of Offence***

**DEFILEMENT OF A YOUNG PERSON BETWEEN 13 AND 16 YEARS OF AGE:** Contrary to Section 215 of the Crimes Decree No. 44 of 2009.

***Particulars of Offence***

**SUMEET GOUNDAR** on the 31<sup>st</sup> day of December, 2012 at Nasinu in the Central Division, had unlawful carnal knowledge of **KESAIA WATI** a young person above the age of 13 years and under the age of 16 years.

2. At the close of the prosecution case, counsel for the defence has made an application that there be no case to answer against each of the first and second accused on the first and third charges.
  
3. To satisfy the elements of the offence of abduction of a person under 18 with intent to have carnal knowledge it must be proved that:
  - (i) the accused
  - (ii) took the victim away from her father without leave
  - (iii) the victim was under 18 and
  - (iv) the taking away was with intent to have carnal knowledge of the victim

4. In this case and in respect of both accused there is evidence before the court that the two girls in question were under 18 but there is not one scintilla of evidence that these accused took the girls away. To the contrary is the evidence of each girl that she left her respective home voluntarily and willfully before either of them knew the person who is charged with abducting her.
5. There is no case to answer on count one nor on count three. The first and second accused are acquitted and discharged on current one and count three respectively.
6. There is evidence before the court of rape of the first victim by the first accused and evidence of sex with the second victim by the second accused. There is therefore a case to answer on Counts Two and Four.



9 July, 2014

A handwritten signature in black ink, which appears to read "P.K. Madigan". The signature is written in a cursive style with a large, looping initial "P".

**P.K. Madigan**  
**Judge**