

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Criminal Case Number HAC 021of 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 Judgment: 10 July, 2014

JUDGMENT

PRAVIN SAMI and **SUMEET GOUNDAR** you have been tried on the following offences:

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 31st day of October 2012 at Nasinu in the Central Division, had carnal knowledge of (Name Suppressed) without her consent.

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 31st day of December, 2012 at Nasinu in the Central Division, had unlawful carnal knowledge of (Name Suppressed) a young person above the age of 13 years and under the age of 16 years.

2. In a majority opinion (2:1) of three assessors, you Pravin Sami have been found not guilty of rape and you Sumeet Goundar have been found unanimously not guilty of the defilement charge.
3. On the evening of the 31st December 2012, two girls aged 15 and 14 had decided to have leave their homes and "run away". With nowhere to go they rode buses for a few hours until a bus driver invited them to a party at one of his friends' house. At that party the girls drank beer and become rather intoxicated. The girls teased the boys and started kissing them and fondling

them and each one was taken into adjoining rooms by each of these accused. The 15 year old claimed that she had been raped by the first accused who denied carnal knowledge but deposed that she had given him oral sex.

4. It was not disputed that the second accused had carnal knowledge of the 14 year old but he said that she had told him that she was 19 and he said that he believed her because she was smoking and drinking and had claimed to be working and living in a flat with her friend, the 15 year old
5. The evidence presented by the Prosecution was in direct conflict with the defence raised by the two accused and as such it becomes purely a matter of credibility. In such a situation the Court gives the utmost weight to the opinions of the assessors and in addressing myself on my own summing up and in accepting the majority opinion on the rape and the unanimous opinion on the defilement I come to the following judgment of the Court.
 - i. The first accused is found not guilty and is acquitted accordingly.
 - ii. The second accused is found not guilty and also acquitted.



10 July, 2014

A handwritten signature in black ink, appearing to read "P.K. Madigan".

P.K. Madigan
Judge