

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CRIMINAL JURISDICTION

CRIMINAL CASE NO.: HAC 174 OF 2011

STATE

-v-

SUSANA CAGIMAIRA

Counsels : Mr. S. Babitu for the State
: Ms. C. Choy for the Accused

Date of Trial : 03 November 2014 - 06 November 2014
Date of Summing Up : 07 November 2014
Date of Judgment : 07 November 2014

JUDGMENT

1. The Accused is charged under following count:

Statement of Offence

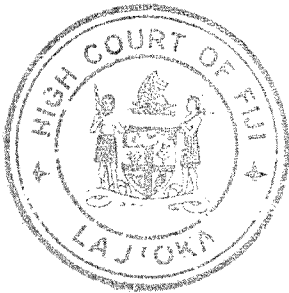
MURDER: Contrary to Section 237 of the Crimes Decree No. 44 of 2009.

Particulars of Offence

SUSANA CAGIMAIRA between the 30th day of November 2010 and 1st December, 2010 at Lautoka in the Western Division, murdered her child.

2. The three assessors unanimously found accused Guilty of the count against her.
3. I direct myself in accordance with the law and the evidence which I discussed in my summing up to the assessors.

4. Considering the nature of the evidence before the court, I am convinced that the prosecution had proved the case beyond reasonable doubt.
5. Prosecution case was based on the evidence of the co-employees of the accused. The accused who gave birth to a child in her staff quarters had stepped on the child causing death of the child. The accused had told that she wants to kill the baby. Circumstantial evidence available in this case is consistent with the guilt of the accused and that is the irresistible and inescapable on the evidence. There was no reason for the lay witnesses to give evidence adverse to the accused. The Doctor stated that cause of death was subarachnoid haemorrhage due to crush injury.
6. I reject the version of accused that she accidentally stepped on the child. The position of the accused is that, she was unaware that she was pregnant until she gave birth to the child. The accused had given birth to two children before. The defence version is highly improbable and inconsistent.
7. I am satisfied that evidence is sufficient to establish the guilt of the accused beyond reasonable doubt.
8. In my view, the assessor's verdicts were not perverse. It was open for them to reach such conclusion on the evidence. I concur with the verdict of the assessors.
9. I find the accused Guilty as charged on the count of Murder contrary to Section 237 of the Crimes Decree and convict her for the count against her.
10. This is the Judgment of the Court.



**At Lautoka
07th November 2014**


Sudharshana De Silva
JUDGE

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