

IN THE HIGH COURT OF FIJI
CRIMINAL JURISDICTION
AT LAUTOKA

CRIMINAL CASE: HAC 116 OF 2011L

BETWEEN : STATE

AND : SIONE SADRUGU

Counsel : Mr. Niudamu J for State
The Accused is in person,

Date of Hearing : 26th of February and 2nd of March 2015

Date of Summing Up: 3rd of March 2015,

Date of Judgment: 4th of March 2015.

JUDGMENT

1. The accused Mr. Sione Sadrugu is charged with one count of Rape contrary to section 207 (1) and (2) (a) of the Crimes Decree. He pleaded not guilty for this offence, wherefore; this action was set down for hearing on 26th of February

and 2nd of March 2015. The prosecution called six witnesses including the victim and tendered the copies of caution interview, its English translation, charging statement and its English translation as prosecution exhibits during the cause of this hearing.

2. The accused gave evidence on oaths and called no other witness for the defence. Subsequently the learned counsel for the prosecution and the accused person made their respective closing submissions. I then delivered my summing up to the assessors.
3. The three assessors have returned with a unanimous guilty verdict against the accused person for this count of rape as charged in the amended information. The assessors' verdict was not perverse. It was open for them to reach such conclusion on the evidence presented during the hearing.
4. Having carefully considered the evidence presented during the cause of the trial, respective closing submissions of the parties, my summing up and the unanimous guilty verdict of the three assessors, I now proceed to pronounce my judgment as follows.
5. The prosecution presented direct evidence of the victim, Mr. James, and four other police officers. Apart from that they tendered the copies of the caution interview of the accused person, its English translation, charging statement and its English translation in the form of documentary evidence.
6. The victim spent the most of that evening with the accused and his friend. He travelled with the accused to find the place of the person whom he thought might have taken his mobile phone. He confirmed that the accused was also

got down from the car, when the friend of the accused hijacked his rental car and went to the hotel to take his money.

7. The victim then stated that he was forced to remove his cloths by the accused. He had no option as the accused was young and fit and also threatened him with a bottle in his hand. He then removed his cloths. At that time the accused inserted his penis into the anus of the victim. Mr. James, the second prosecution witness heard the shouting of the victim for help while he was passing the place of incident. He also heard the sound of someone was running away through the bush. He confirmed that he saw the victim shaken and naked only with his underwear when he came out from the jungle. On the other hand, the accused in his evidence denied this allegation.
8. I observed the manner the victim gave his evidence and he is consistence with his evidence. I accordingly find him truthful and reliable witness. He identified the accused person as the person who robbed him and then got down with him from the car when his rental car was hijacked by the friend of the accused. He stated that he has no option but to surrender to the accused as he was young and fit and was threatening him with a bottle in his hand. Accordingly it appears that the victim did not give his consent voluntarily and freely to the accused to insert his penis into his anus. He pleaded the accused to not to do any irrational thing, which established that the accused was aware of the fact that the victim was not giving his consent for this act.
9. Having considered the summing up I delivered and the reasons I set out above, I do not find any cogent reason to disagree with the unanimous guilty verdict of the assessors.

10. I accordingly find the accused is guilty for the offence of rape contrary to section 207(1) and 207 (2) (a) of the Crimes Decree. Wherefore, I convict the accused for this offence of rape accordingly



At Lautoka

4th of March 2015


R. D. R. Thushara Rajasinghe
Judge

Solicitors : Office of the Director of Public Prosecutions

The Accused person,