

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. HAC 53 of 2014

STATE

V

KEN SINGH

Counsel: Ms W. Elo for State
Mr A. Paka (L.A.C.) for the accused

Dates of Hearing: 11, 12 April 2016

Date of Judgment: 13 April 2016

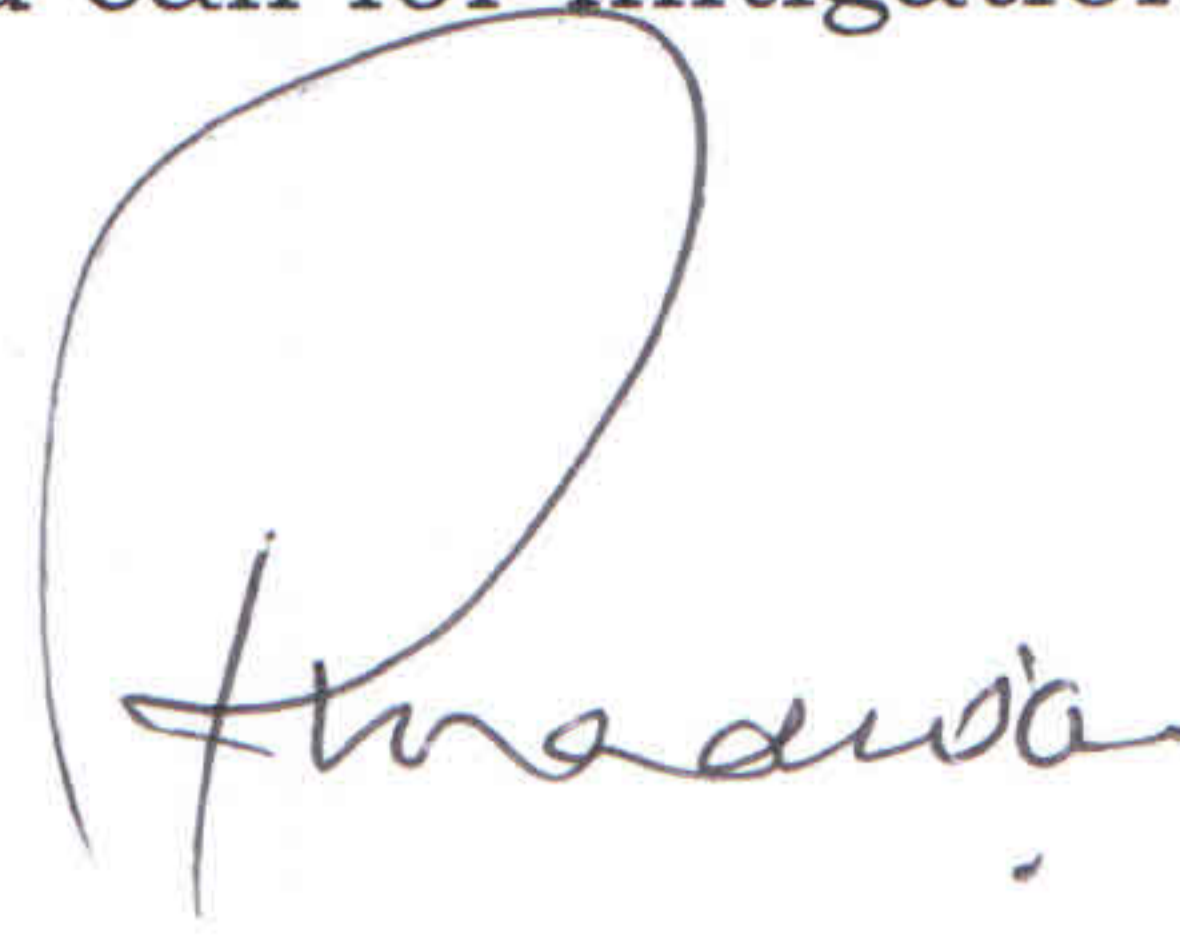
JUDGMENT

- [1] The accused was found guilty in the unanimous opinion of three assessors of the rape by finger of his niece, aged 15 years.
- [2] The main evidence came from the complainant Molly (not her real name) who told the Court that she had gone from Suva in June 2014 to stay with her maternal aunt and her husband (the accused) in Taveuni.
- [3] One day when alone with the accused, she had gone to rest after completing household chores. The accused came into the room, drew the curtains and forcefully undressed her. He then

embarked on a series of sexual acts including invading her with his finger.

- [4] The medical evidence called by the State confirmed Molly's evidence. The Medical Officer was able to conclude from her examination that there had been digital penetration for medical reasons she gave in Court. This evidence was strenuously challenged by the defence.
- [5] The accused elected to remain silent in his defence.
- [6] Molly's evidence was not without its difficulties. She appeared to resile from matters she had told the Police in her statement but when shown the statement reluctantly agreed that she had said those things.
- [7] She agreed in cross examination that although she was fondled, there was no penetration but on re-examination said that in the course of fondling she was "poked".
- [8] There was nevertheless clear evidence in chief of digital penetration, despite the uncertainties in her delivery. I accept her evidence and was particularly conscious of her apparent lack of sophistication.
- [9] Although the evidence of the Doctor appeared to be rather odd, she did explain to the satisfaction of the Court the medical reasons for her finding.
- [10] I give great weight and respect to the unanimous finding of guilty by the Lady and Gentlemen assessors and I concur with that finding and also find the accused guilty as charged.

[11] I convict him accordingly and call for mitigation of sentence.



P.K. Madigan

Judge

At Labasa

13 April, 2016

