

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. HAC 19 of 2015

STATE

V

DAVID JOSIAH BROWN

Counsel: Ms. A. Vavadakua for State
Accused in Person

Date of Trial : 9, 10 May 2016
Dare of Judgment : 10 May 2016

JUDGMENT

[1] The accused was charged with the following offences:

FIRST COUNT

Statement of Offence:

INDECENT ASSAULT: Contrary to Section 154 (1) of
the Penal Code Cap. 17.

Particulars of Offence

DAVID JOSIAH BROWN, between the 1st day of January 2008 and the 31st day of December 2008 at Batinivuriwai Settlement, Bua in the Northern Division, unlawfully and indecently assaulted **(name suppressed)**.

SECOND COUNT

Statement of Offence:

SEXUAL ASSAULT: Contrary to Section 210 (1) (a) of the Crimes Decree 44 of 2009.

Particulars of Offence

DAVI JOSIAH BROWN, between 1st day of January 2012 and the 22nd day of November 2012 at Waibunabuna Settlement, Bua in the Northern Division unlawfully and indecently assaulted **(name suppressed)**.

THIRD COUNT

Statement of Offence:

RAPE: Contrary to Section 207 (1) and (2) (a) of the Crimes Decree 44 of 2009.

Particulars of Offence

DAVID JOSIAH BROWN, between 23rd day of November 2012 and the 31st day of December 2012 at Waibunabuna, Bua in the Northern Division, had carnal knowledge of **(name suppressed)** without her consent.

FOURTH COUNT
Representative Count
Statement of Offence:

RAPE: Contrary to Section 207 (1) and (2) (a) of the Crimes Decree 44 of 2009.

Particulars of Offence

DAVIDA JOSIAH BROWN, between the 1st day of January 2013 and the 31st day of December 2013 at Nawailevu Village, Bua in the Northern Division, had carnal knowledge of **(name suppressed)** without her consent.

FIFTH COUNT
Statement of Offence:

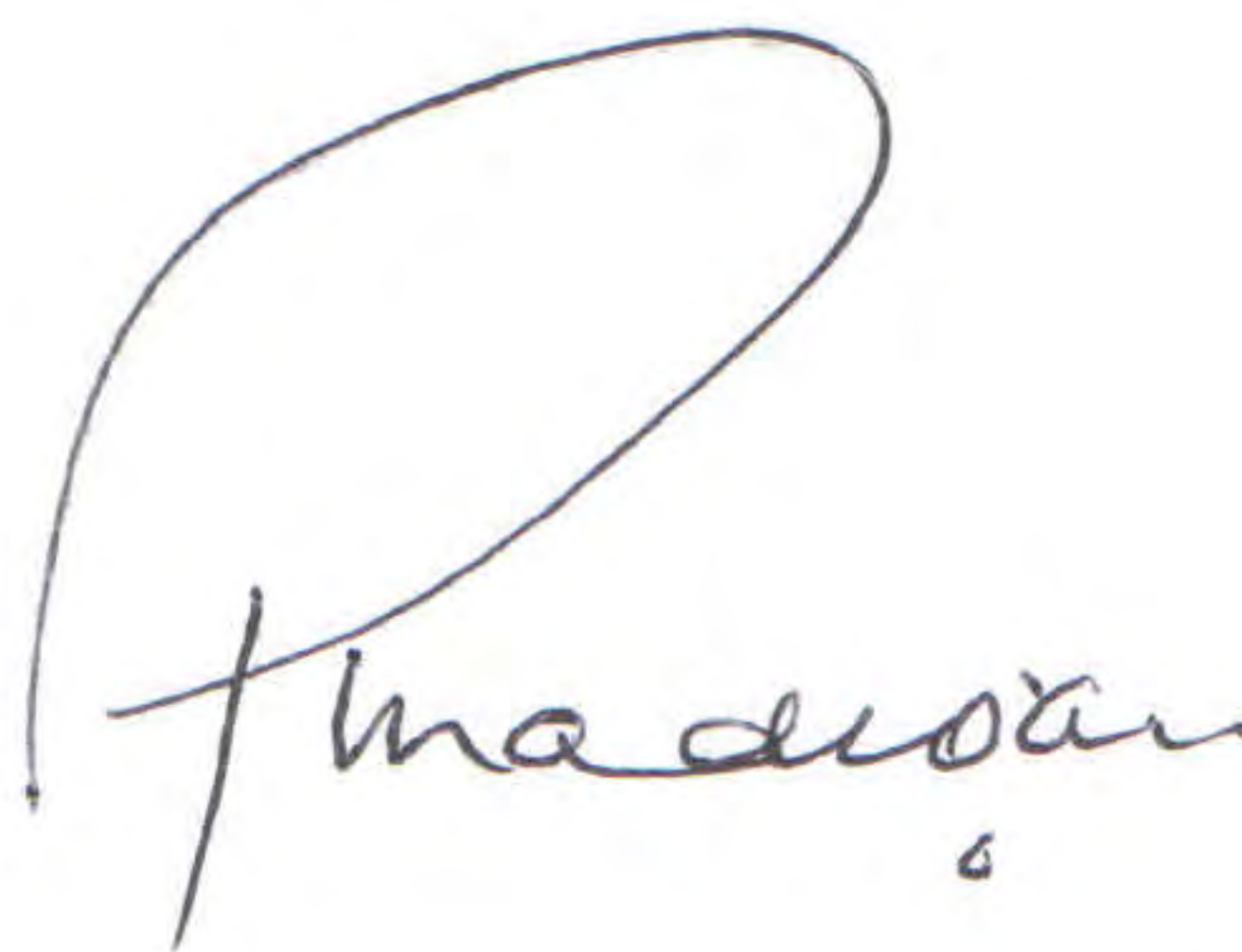
RAPE: Contrary to Section 207 (1) and (2) (a) of the Crimes Decree 44 of 2009.

Particulars of Offence

DAVID JOSIAH BROWN, between 1st of August 2014 and the 31st day of August 2014 at Waibunabuna Settlement, Bua in the Northern Division, had carnal knowledge of **(name suppressed)** without her consent.

- [2] After trial in this Court three assessors returned unanimous opinions of guilty on each count.

- [3] In directing myself on my own summing up, and in carefully reviewing the evidence I agree with the assessors and find the accused guilty on each count and I convict him accordingly.
- [4] The State called but one witness, the daughter of the accused. She gave confident evidence about the sexual assaults including rape that the accused subjected her to between the years 2008 to 2014 when the offences were detected. She was unshaken in cross-examination.
- [5] The accused gave evidence of alibi in which he contradicted himself and spoke of many irrelevant matters. He said that the girl was being used by his in laws to make up these allegations, because they disapproved of an extra-marital affair that he had in 2011.
- [6] I did not believe him and he said nothing to cause me to doubt the veracity of the child's evidence
- [7] I find that the State has discharged the burden upon it to prove these counts beyond reasonable doubt.



P. K. Madigan
Judge



At Labasa
10 May 2016