

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. HAC 9 of 2015

STATE

V

ROPATE DULUKOBAU

Counsels: Ms. A. Vavadakua for the State
Mr. I. Rakaria (L.A.C.) for the Accused.

Date of Summing Up : 20 September 2016

Date of Judgment : 20 September 2016

JUDGMENT

[1] The accused faced the following charges in this Court:

FIRST COUNT

STATEMENT OF OFFENCE

ASSAULT WITH INTENT TO COMMIT RAPE:

Contrary to section 209 of the Crimes Decree No. 44
of 2009.

PARTIUCLARS OF OFFENCE

ROPATE DULUKOBAU on the 2nd day of February 2015, at Raviravi Village, Macuata, in the Northern Division, assaulted **WAINIKITI VOSADRAU** by punching her neck, with the intention of committing rape.

SECOND COUNT

STATEMENT OF OFFENCE

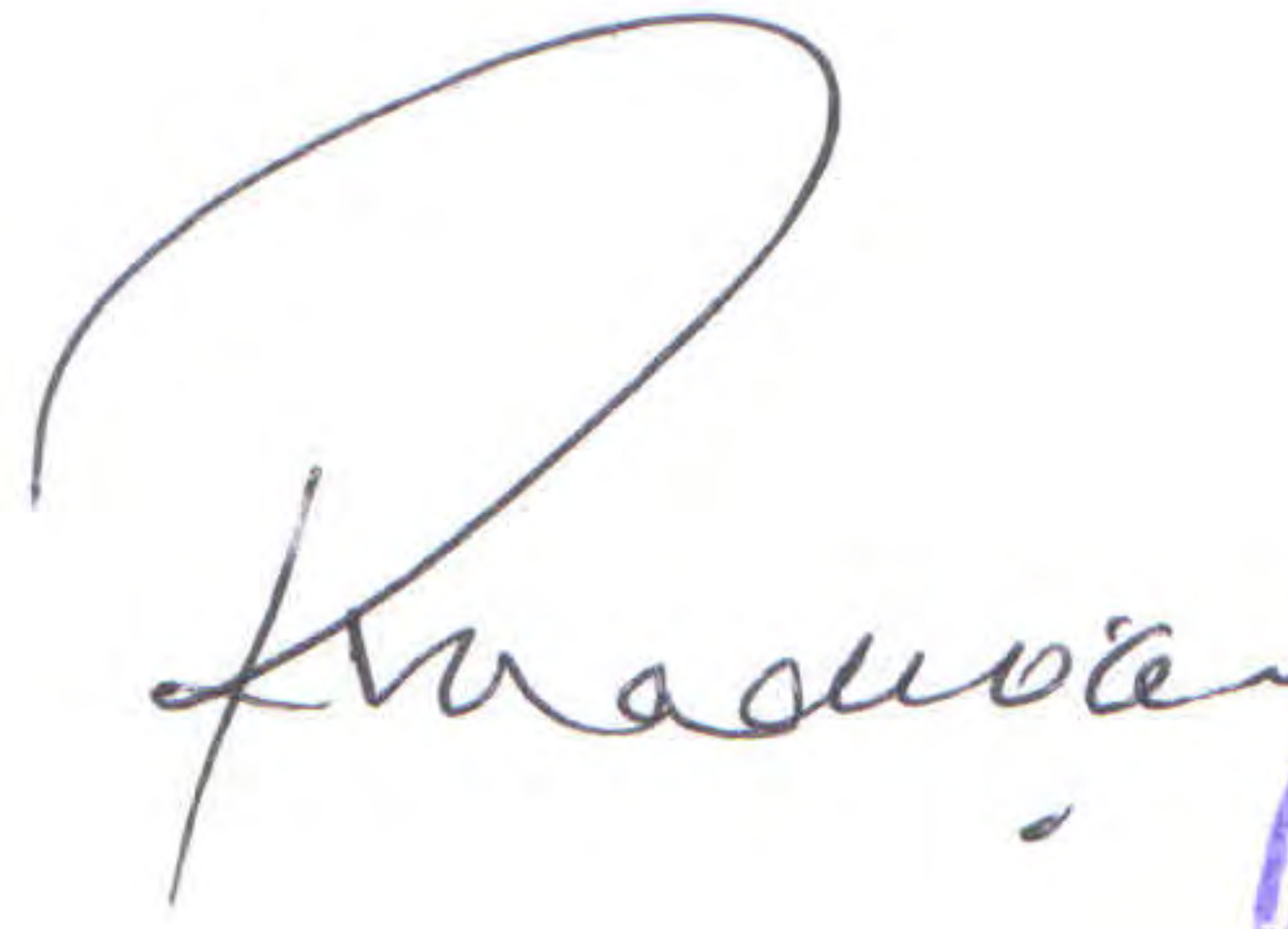
RAPE: Contrary to section 207 (1) and (2) (a) of the Crimes Decree No. 44 of 2009.

PARTIUCLARS OF OFFENCE

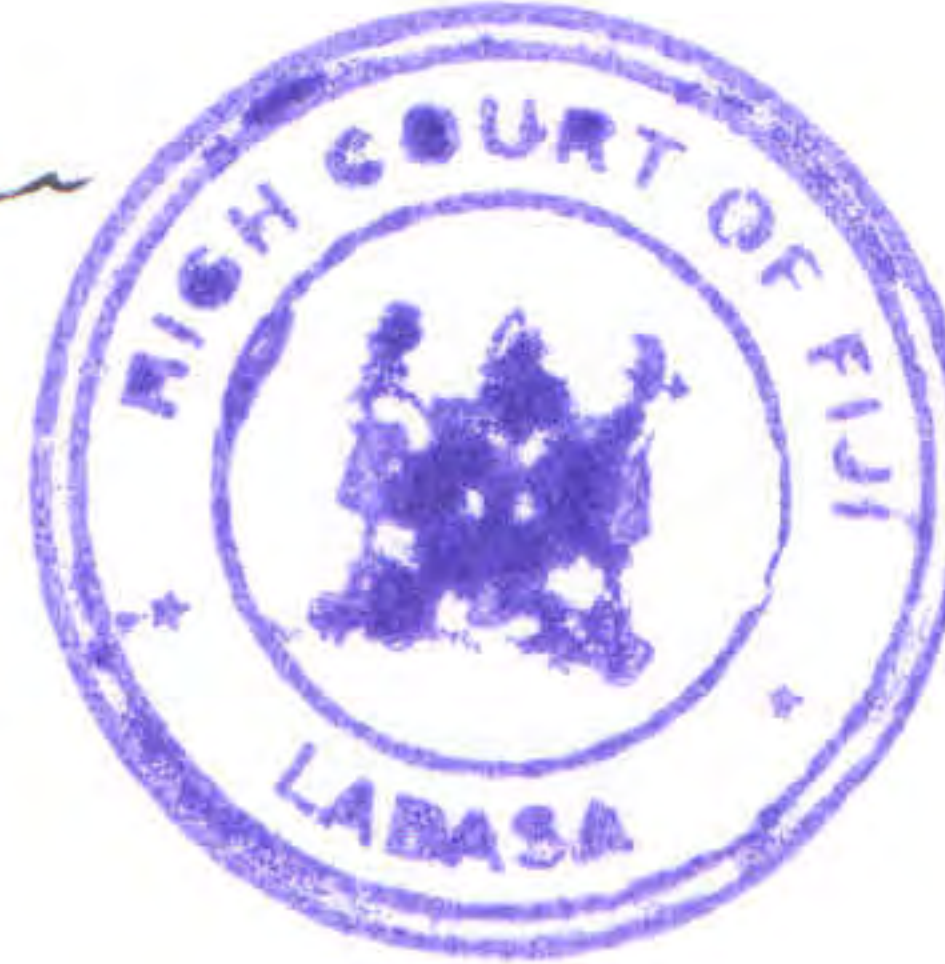
ROPATE DULUKOBAU on the 2nd day of February 2015, at Raviravi Village, Macuata, in the Northern Division, had carnal knowledge of **WAINIKITI VOSADRAU**, without her consent.

- [2] Three assessors have returned with unanimous opinions of not guilty to both charges.
- [3] Whilst I believe that the complainant wife gave confident and consistent evidence of assault and rape, I do have lurking doubts about some of the evidence. There is the doubt raised as to why she would pursue this complaint given that she is the mother of 4 young children and I have doubts as to why she would wait for 5 days before reporting the assaults.
- [4] In giving great weight to the assessors 'opinions and having regard to the doubts raised, I cannot say that the State has

proved to me the case beyond reasonable doubt. I therefore agree with the assessors and find the accused not guilty. He is acquitted and free to go.



P. K. Madigan
Judge



At Labasa

20 September 2016