

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. 035 of 2016

STATE

v

THOMAS BULL

Counsel: Ms A. Vavadakua for the State.
Ms S. Nasedra (L.A.C) for the Accused

Date of Summing Up : 10 May 2017

Date of Judgment : 10 May 2017

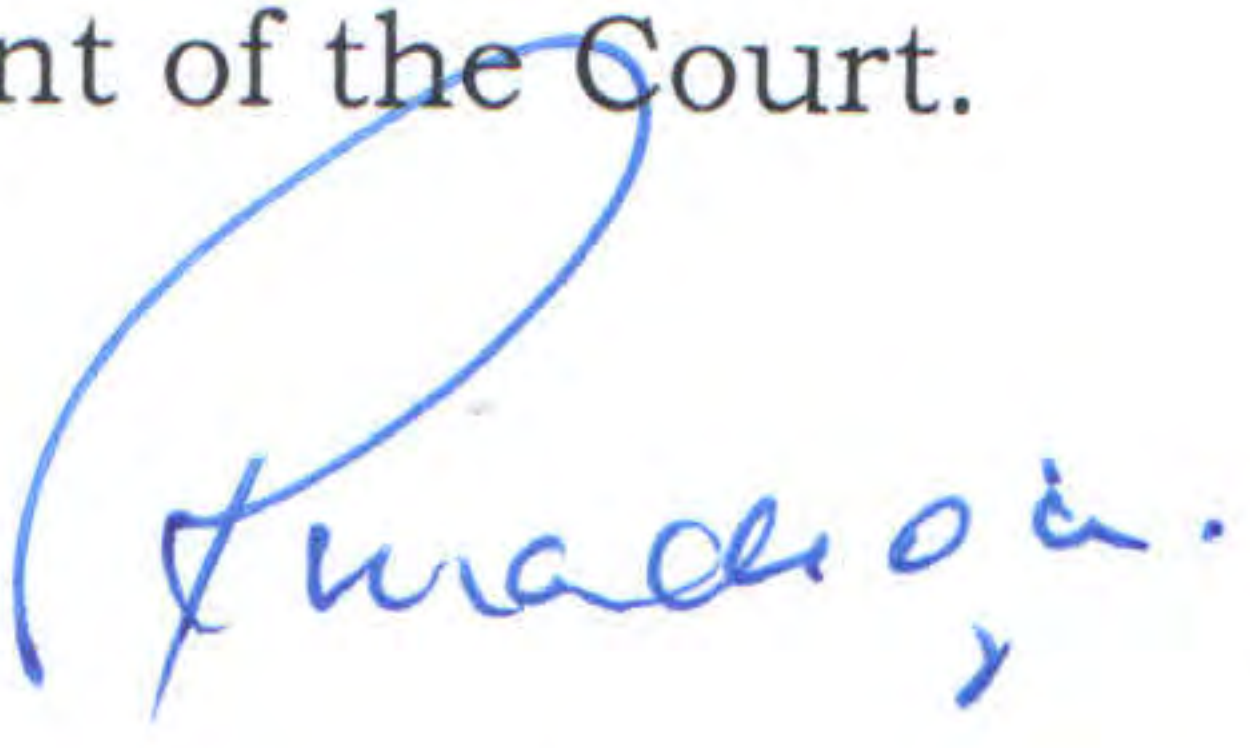
JUDGMENT

1. The accused was tried in this Court on one charge of rape of his 12 year-old step-daughter in a remote village in Bua on the 22nd June 2016.
2. Three assessors returned with a majority opinion of guilty of that crime and the Court concurring with the majority found the accused guilty and convicted him accordingly.
3. These are the reasons of the Court for that finding.
4. The prosecution case was founded solely on the evidence of the victim whose name is suppressed but whom the Court will refer to in this judgment as Sara. In addition

photographs were produced and a minor witness was called who added nothing to the prosecution case.

5. Sara told the court that on the date in question her mother had gone away for a week to care for a sick relative (the minor witness) leaving her at home with the accused and two young step-brothers. That night she awoke to find the accused on top of her (she "felt something heavy") and having undressed her he "put his male part into my female part". He told her not to tell anybody.
6. A day or two before the mother was due to return, he gave her \$100 to go away to Labasa and stay with an aunt.
7. It was the defence position that the \$100 was for fares and dental treatment but the Court finds that it was a "sweetener" and a way to get her out of the house when Mother was returning.
8. While at the house of her aunt she told the Aunt about the assault and it was arranged for her to go home and tell mother.
9. Unfortunately mother was unsupportive and unsympathetic and made her go alone to report the rape at the Dreketi Police Station.
10. The child being under 13 years of age, consent was not in issue.
11. The accused gave evidence in his defence denying that the offence took place. He said that he sometimes gave \$100 to each of his children for pocket money.

12. The court found that the evidence of the complainant was consistent, confident and reliable despite her young years. It was convincing enough to make the Court sure that she was telling the truth.
13. Although the accused has nothing to prove, his evidence was in many respects confused and implausible. For example, he was clearly impoverished at the time and it is inconceivable that he would be giving each of his 4 children \$100 at a time for pocket money. He admitted that he had to send the complainant to the local pastor to get the money from a larger amount which was owed to him because he had no other money with him.
14. The Court finds that the State has proved the case beyond reasonable doubt and the accused is guilty and convicted.
15. That is the Judgment of the Court.


P. K. Madigan
Judge



At Labasa
11 May 2017