

IN THE HIGH COURT OF FIJI AT SUVA

CASE NO: HAC. 337 of 2017

[CRIMINAL JURISDICTION]

STATE

V

ANIL DUTT SHARMA

Counsel : Mr. T. Tuenuku for State
Ms. S. Kant and Mr. V. Kumar for Accused

Hearing on : 07 -10 May 2018

Summing up on : 11 May 2018

Judgment on : 11 May 2018

(The name of the complainant is suppressed. Accordingly, the complainant will be referred to as "ZK".)

JUDGMENT

1. The accused is charged with the following offences;

FIRST COUNT

(Representative Count)

Statement of Offence

Rape: Contrary to Section 207 (1) and (2)(b) and (3) of the Crimes Act 2009.

Particulars of Offence

ANIL DUTT SHARMA, between the 1st day of August, 2017 and 31st day of August, 2017, at Vusuya, Nausori in the Eastern Division, penetrated the vagina of ZK [name suppressed] a child under the age of 13 years with his finger.

SECOND COUNT
(Representative Count)

Statement of Offence

Indecent Assault: Contrary to Section 212(1) and (2) of the Crimes Act, 2009.

Particulars of Offence

ANIL DUTT SHARMA, between the 1st day of August, 2017 and 31st day of August, 2017 at Vusuya, Nausori in the Eastern Division unlawfully and indecently assaulted ZK, a child under the age of 16 years by fondling her breasts with his hands.

2. The assessors have returned with the unanimous opinion that the accused is not guilty of both counts.
3. I direct myself in accordance with the summing up delivered to the assessors this morning and the evidence adduced during the trial.
4. Given all the evidence adduced in this case, I find that the account given by the complainant regarding her encounter with the accused on the night in question is not credible and reliable. It was clear that the complainant had been subjected to some form of sexual assault. However, the evidence does not establish beyond reasonable doubt that the accused committed the offences as alleged by the prosecution.
5. Therefore, I agree with the unanimous opinion of the assessors and I find the accused not guilty of both counts.
6. The accused is acquitted of both counts accordingly.



Vinsent S. Perera

JUDGE

Solicitors:

Office of the Director of Public Prosecutions for the State
Sairav Law, Rakiraki for the Accused