

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. HAC 16 of 2018

STATE

V

RAVNEEL SANDEEP PRASAD

Counsel : Miss D. Rao for the State
Mr. A. Kohli with Miss R. Raj for the Accused

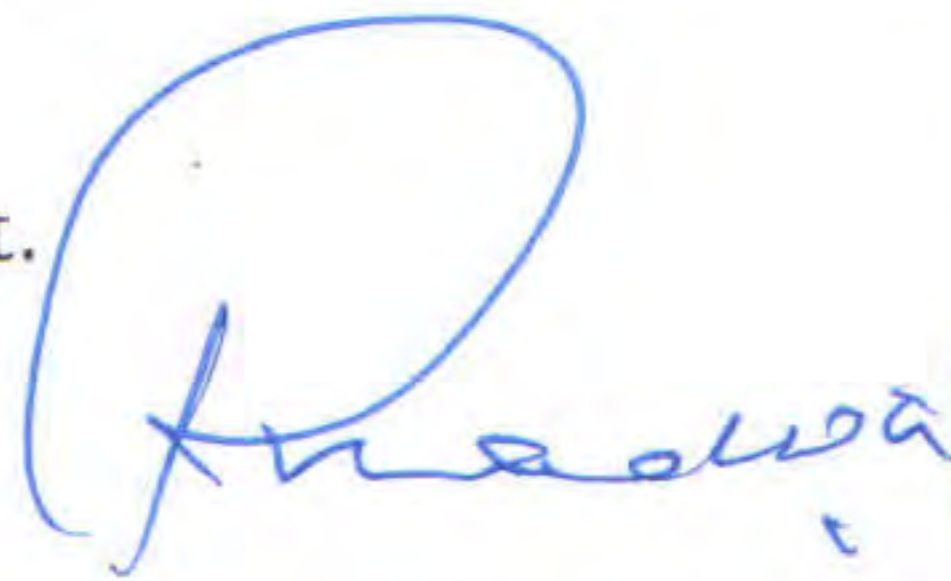
Date of Trial : 27, 28 and 29 March 2019
Date of Summing Up : 01 April 2019
Date of Judgment : 01 April 2019

JUDGMENT

1. The accused faced trial in this Court of two counts of rape against the same 16 year old victim, once in October 2016 and once in March or April 2017.
2. The three assessors after hearing closing speeches and my Summing Up returned with unanimous opinions or not guilty on both counts.

3. The complainant whom I shall call Mere for the purposes of this judgment is the half-sister of the accused. At the time of the first complaint she was 15 years old and for the second complaint 16 years old.
4. She gave evidence that in October 2016 she accompanied her brother at 2am to her grandparents to collect a "machine" that he had left there. They had already been to the grandparents that evening but had returned home without the machine. En route to the grandparents the second time the accused ("R") stopped the vehicle in a deserted bushy place on a side road and proceeded to rape her on the passenger seat in the vehicle's front compartment. He then drove them both home where she kept silent, not even telling her mother who was awake and slept on the same bed as Mere.
5. The second assault she testified to occurred some 5 or 6 months later in the Autumn of 2017. She was in bed sleeping after her mother had left the house for work. Her brother came into the room, locked the door and again raped her.
6. The now 18 year old's evidence was unsatisfactory in many respects. She was reluctant, hesitant and contradicted herself. She had difficulty in describing the logistics of each assault, especially for the earlier assault in the confines of the front passenger compartment of a 3 ton truck.
7. The evidence of the second prosecution witness, the Police Officer mainly confirmed the evidence of the complainant that was given to her by way of a statement made. She was however thrown into confusion about the two medical examinations that the young girl underwent. It had been found by examination that the girl was no longer a virgin.

8. It was an allegation of the defence that this second prosecution witness had conspired with the complainant to invent a perpetrator of rape to protect a man she had been found with on February 16th in suspicious circumstances. This was denied by both witnesses and of course there is no evidence before the Court that would validate this conspiracy theory. The evidence of the accused that this man had taken her virginity was outrageous in its supposition in that there is no way that he could have known with whom she had had previous sexual activity.
9. It is a fact however that these two alleged assaults were not complained of to anybody until the day after she had been found alone with another man in unusual if not suspicious circumstances and a day after it had been found that she had been sexually active.
10. Although it is not a part of our law that a complaint of sexual assault must be made within a reasonable time, this Court finds that the timing and circumstances of the complaints coupled with the unsatisfactory prosecution evidence create a reasonable doubt of the guilt of the accused and as a result. I concur with the assessors findings and find him not guilty on each charge and acquit him of each count accordingly.
11. That is the Judgment of the court.



P. K. Madigan

Judge



At Labasa

01 April 2019