

IN THE HIGH COURT OF FIJI

AT LAUTOKA

[CRIMINAL JURISDICTION]

CRIMINAL CASE NO. HAC 40 OF 2017

BETWEEN : **STATE**

AND : **LUKE NACUVA**

Counsel : **Ms. S. Naibe for the State**
Ms. Radrole for the Accused

Hearing on : **13th, 14th of May 2020 & 02nd of June 2020**

Summing up on : **02nd of June 2020**

Judgment on : **05th of June 2020**

JUDGMENT

1. The accused, Luke Nacuva was charged with 1 count of Rape. He pleaded not guilty to that charge and the matter was taken up for trial.
2. The charge was;

COUNT 1

Statement of Offence

RAPE: Contrary to section 207(1) and (2) (a) of the Crimes Act of 2009.

Particulars of Offence

Luke Nacuva, on the 25th day of January 2017, at Navosa, in the Western Division, had carnal knowledge of Vasemaca Ratu, without her consent.

3. The ensuing trial lasted for 3 days. The complainant Vasemaca Ratu and the doctor who examined her after the alleged incident, Dr. Ame Ralulu Nasokia gave evidence for the prosecution while the accused gave evidence in his defense.
4. At the conclusion of the evidence and after the directions given in the summing up, the three assessors unanimously found the accused not guilty to the alleged count of Rape.
5. I direct myself in accordance with the law and the evidence led in this case, inclusive of which I have discussed in my summing up to the assessors.

Analysis

6. When analyzing the evidence I am mindful that only direct evidence which relates to the alleged incidents is the evidence of the PW1. I am also mindful that law does not require any corroboration of the complainant's evidence as per section 129 of the Criminal Procedure Act. Therefore, the ultimate question would be whether her evidence would be trustworthy and reliable.
7. The PW1's evidence is not very clear. There are many contradictions apparent. She gives different versions regarding the way her injuries occurred. Furthermore, her versions of events are inconsistent *inter-se*. The prosecution case is very weak. Furthermore, the accused's evidence creates a substantial doubt in the weak prosecution case.
8. Therefore the assessors were quite correct in opining that the accused was not guilty. In the light of the available evidence they had no choice.
9. This court has no option but to concur with the unanimous opinion of the assessors.

10. I acquit Mr. Luke Nacuva of the offence of Rape.

11. This is the Judgment of the Court.



Chamath S. Morais
JUDGE

Solicitors for the State : ***Office of the Director of Public Prosecutions, Lautoka***
Solicitors for the Accused : ***Legal Aid Commission, Lautoka.***