

**IN THE HIGH COURT OF FIJI AT SUVA**

**CASE NO: HAC. 214 of 2019**

**[CRIMINAL JURISDICTION]**

**STATE**

**V**

**SELEMO WALEVU**

**Counsel** : Ms. S. Swastika and Mr. Komaibaba for the State  
Ms. N. Mishra and Ms. L. Taukei for the Accused

**Hearing on** : 22 – 24 June 2020

**Summing up on** : 24 June 2020

**Judgment on** : 26 June 2020

[The name of the complainant is suppressed. Accordingly, the complainant will be referred to as “SD”. No newspaper report or radio broadcast of the proceedings shall reveal the name, address or school, or include any particulars calculated to lead to the identification of the said complainant.]

**JUDGMENT**

1. The accused is charged with the following offence;

*Statement of Offence*

**Rape:** contrary to Section 207(1) and (2) (a) of the Crimes Act, 2009.

*Particulars of Offence*

**SELEMO WALEVU** on the 19<sup>th</sup> day of March, 2019 at Nasauvere Primary School Compound, Vunidawa in the Eastern Division, had carnal knowledge of **SD**, without her consent.

2. The assessors have returned with the unanimous opinion that the accused is not guilty of the above charge.
3. I direct myself in accordance with the summing up delivered to the assessors on 24/06/20 and the evidence adduced during the trial.
4. Given all the evidence adduced in this case, and the demeanour of PW1 when she gave her evidence, I find that the account given by PW1 regarding her encounter with the accused on the night in question is not credible and reliable.
5. The accused admitted penetrating PW1's vagina with his penis. The issue to be decided during the trial was whether the accused did that without PW1's consent. The evidence led by the prosecution does not establish beyond reasonable doubt that PW1 did not consent for the accused to penetrate her vagina on the night in question.
6. Therefore, I agree with the unanimous opinion of the assessors and I find the accused not guilty of the offence as charged.
7. The accused is acquitted accordingly.



  
Vincent S. Perera  
JUDGE

**Solicitors;**  
**Office of the Director of Public Prosecutions for the State**  
**Legal Aid Commission for the Accused**