

**IN THE HIGH COURT OF FIJI**  
**AT LABASA**  
**CRIMINAL JURISDICTION**

**Crim. Case No: HAC 01 of 2022**

**STATE**

**v**

**SONAL SANDHYA LATA**

**Counsel:** Mr. T. Tuenuku & Mr. E. Kotoilakeba for the State  
Mr. A Sen & Mr. H. Rao for the Accused

**Date of Hearing:** 26 February 2024 - 1 August 2024  
**Date of Judgment:** 2 April 2025

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**JUDGMENT**

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1. **Sonal Sandhya Lata**, the accused, is indicted with ***Murder*** contrary to section 237 of the Crimes Act 2009, laid out as follows in the Information by the Director of Public Prosecutions dated 28 January 2022 and filed on 1 February 2022:

**COUNT ONE**

*Statement of Offence*

**MURDER:** Contrary to section 237 of the Crimes Act 2009.

*Particulars of Offence*

**SONAL SANDHYA LATA**, on the 14<sup>th</sup> day of June, 2020, in Boubale, Bulileka, Labasa, in the Northern Division, murdered her new born baby.

2. The accused, pleaded *not guilty* to the aforesaid indictment on 5 July 2022, and tried accordingly on 26 February 2024 to 1 August 2024. The prosecution closed its case on 1 March 2024 followed by defence *submission of no case to answer*, and the Court on 5 June 2024 ruled a *case to answer* and subsequently provided the relevant options under section 231(2) of the Criminal Procedure Act 2009 to the defence, who opted for the accused to remain silent, but call 2 other defence witnesses. The defence ran its case via the 2 witnesses on 3 to 4 July 2024, and thereafter closed its case. Both counsels delivered their closing submissions on 1 August 2024, and this is the Court's judgment.
3. Trial commenced on 26 February 2024 and the prosecution closed its case on 1 March 2024, having called the following 10 witnesses, namely: PW1 – Rajesh Chandra; PW2 – Navil Chandra; PW3 – Dr. Kaloanau Saukilagi; PW4 – Dr. Mereoni Voce; PW5 – Jotishna Pundit; PW6 – Narendra Chand; PW7 – IP. Gasio Rokodulu; PW8 – Dr. Daniella John; PW9 – Dr. Penaia Dimuri; and PW10 – Nacanieli Gusu.
4. In addition, the prosecution tendered the following exhibits during the prosecution's case at the trial: **PE1** – Photographic booklet tendered via PW7 IP. Gasio Rokodulu; **PE1A** – The 'General Samples – Advice letter to Analyst' dated 25 June 2020 tendered via PW7 IP. Gasio Rokodulu; **PE2** – Autopsy report dated 18 June 2020 tendered via PW8 Dr. Daniella John; **PE3** – Medical examination form and report of Sonal Sandhya Lata dated 15 June 2020 tendered via PW9 Dr. Penaia Dimuri; and **PE4** – DNA report compiled and tendered via PW10 Nacanieli Gusu.
5. The prosecution closed its case on 1 March 2024, and Mr. Sen then informed the Court of intending to make a *submission of no case to answer* pursuant to section 231(1) of the Criminal Procedure Act 2009. The submission of *no case to answer* was heard on 6 March

2024, and the Court ruled a *case to answer* on 5 June 2024, and offered the defence its options under section 231(2) of the Criminal Procedure Act 2009, to which the defence opted for the accused to remain silent, but call 2 independent defence witnesses.

6. On 3 – 4 July 2024 the defence called 2 witnesses, namely: DW1 – Dr. Farina Bibi Fatima; and DW2 – Urmila Devi. In addition, the prosecution when cross-examining DW1 - Dr. Farina Fatima, also tendered **PE5** i.e. Ministry of Health and Medical Services, Medical Superintendent Labasa Hospital to Criminal Investigation Department, Labasa Police Station, report dated 18 June 2020 with reference no. 330003853, and likewise for DW2 – Urmila Devi whose statement to the police dated 16 June 2020 was also tendered as **PE6**.
7. Upon the defence closing its case, both counsels then delivered their closing submissions on 1 August 2024, and this is the Court’s judgment.
8. According to sections 57 and 58 of the Crimes Act 2009 including Woolmington v DPP [1935] AC 462 at 481 (HL), the prosecution bears the burden to prove *beyond reasonable doubt* all the elements of *Murder* in the indictment.

### **Physical and fault Elements for Murder**

9. Section 237(a)-(c) of the Crimes Act 2009 state:

#### ***Murder***

*237. A person commits an indictable offence if –*

- (a) the person engages in conduct; and*
- (b) the conduct causes the death of another person; and*
- (c) the first-mentioned person intends to cause, or is reckless as to causing, the death of the other person by the conduct.*

10. Section 245 of the Crimes Act 2009 state:

*245. A child becomes a person capable of being killed when it has completely proceeded in a living state from the body of its mother-*

- (a) whether it has breathed or not; and*

*(b) whether it has an independent circulation or not; and  
(c) whether the navel-string is severed or not.*

11. Based on section 237(a)-(c) of the Crimes Act 2009, in this instant, the elements for *Murder* are:

[1] A person i.e. the accused Sonal Sandhya Lata;

[2] Engages in conduct;

[3] Her conduct causes the death of her new born baby (ss. 245-246); and

[4] She intended to cause, or is reckless as to causing, the death of her new born baby by her conduct.

### **Prosecution case via PW 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10**

#### **PW1 – Rajesh Chandra**

12. **PW1 Rajesh Chandra**, in **examination-in-chief**, testified that he is 60 years old, a farmer, and residing at Boubale, Bulileka, Labasa, since birth. PW1 stated that he has 2 children, namely: (i) Navil Chandra; and (ii) Vinal Chandra Prasad, who respectively were born in 1984 and 1986. PW1 stated that he knows Sonal Sandhya Lata who is his son's Navil Chandra's wife and remain living together as married couple. PW1 stated that on 15 June 2020 at around 3pm he was in Nadi to assist his younger son Vinal Chandra Prasad construct his house. PW1 stated that on that same date and time whilst in Nadi, he received a call from one Jotishna a.k.a Sonu who is the house girl at his house at Boubale, Bulileka, Labasa, occupied at that time by PW1's 80 year old mother, son Navil Chandra, daughter-in-law Sonal Sandhya Lata, and 2 grandchildren, namely: i) Navsikha (elder); and ii) Shonal Shiu Chandra (younger) who are his son's and daughter-in-law's children. PW1 engaged in Dock ID and positively identified Sonal Sandhya Lata sitting in the accused gallery. PW1 stated that Jotishna a.k.a Sonu called via her mobile phone and told him that there is a baby born and dead. PW1 stated that he then called his son Navil Chandra who was then at work at Westpac Bank to inquire, and his son told him that nothing as such happened. PW1 stated that he then called Jotishna a.k.a Sonu again and the latter told him that it is true, to which PW1 then called his son Navil Chandra and a neighbour namely Deva Nand to go and check. PW1 stated that his son Navil Chandra and their neighbour Deva Nand went to check and

confirmed with him of the dead baby at PW1's home at Boubale, Bulileka, Labasa, and PW1 told them to call the police. PW1 stated that Jotishna a.k.a Sonu told him that the baby was born at home and it was Sonal Sandhya's baby. PW1 acknowledged that when someone dies, one has to inform the police. PW1 stated that he was in Nadi on 15 June 2020, and prior to that he usually stays at Bulileka, Labasa, and since 2016 he travelled back and forth to the USA. PW1 stated that Sonal did not tell him that she was pregnant, and seeing her physical appearance while staying together, he did not notice that she was pregnant. PW1 stated that prior to the incident, he had a good and respectful relationship with his daughter-in-law Sonal who was well looked after, and at the same time looking after PW1's mother. PW1 stated that after being informed of the incident via phone by Jotishna a.k.a Sonu, he then returned to Labasa on 17 June 2020. PW1 stated that upon reaching Labasa, he then went to his neighbour Deva Nand's place where his mother and other relatives were since the police had vacated everyone from his house.

In **cross-examination** by Mr. Sen, PW1 stated that Boubale is a rural setting where there is sugarcane and rice farming. PW1 stated that he occasionally lives there since 2016, but his mother lives there permanently. PW1 stated that his son Navil works at Westpac Bank, Labasa, and also lives at Boubale with his 2 children i.e. a boy and a girl who attended Bulileka primary school, but now study in Labasa town. PW1 stated that Sonal came from Viti Levu and married his son Navil and gave birth to 2 children, and adapted well into the extended family setting. PW1 stated that Sonal would get the children ready for school in the morning by bathing, feeding and dressing them, and Navil took the children to school, while she looked after PW1's elderly mother at home. PW1 described Sonal Sandhya as a kind, nice and compassionate woman and mother, supportive of the family, and in a very good relationship with her husband including their neighbour such as Deva Nand.

PW1 was not **re-examined** by the prosecutor.

### **PW2 – Navil Chandra**

13. **PW2 Navil Chandra**, in **examination-in-chief**, testified that he is 39 years old, a bank officer at Westpac Bank, Labasa, and currently staying at Nadamu Housing for 3 years. PW2

stated that prior to that he stayed at Boubale, Bulileka, Labasa, in the house and on land belonging to his grandmother, with his wife Sonal Sandhya Lata, kids and paternal grandmother. PW2 stated that he has been working at Westpac Bank for 9 years. PW1 stated that he has been married to Sonal Sandhya Lata for 15 years, and still staying together at the current address. PW2 engaged in Dock ID and positively identified his wife Sonal Sandhya Lata sitting in the accused gallery. PW2 stated that he got married to Sonal Sandhya Lata in 2009. PW2 stated that he met Sonal Sandhya Lata via Facebook, and physically met her while schooling in Lautoka. PW1 stated that his wife is originally from Nadi and their relationship before getting married was very good. PW2 stated that the marriage took place in Labasa. PW2 stated that he studied and graduated from USP in Suva, and met his wife in Lautoka who was also attending USP at that time. PW2 stated that he was not working at the time they got married, and their wedding was funded by his parents. PW2 stated that after the marriage, his parents relationship with his wife was very good, and likewise in 2020 between him and his wife. PW2 stated that they stayed happily together, and his wife looked after their children i.e. a son and a daughter well who attend Gurunanak Primary School, respectively their son in class 5 and daughter in class 7. PW2 stated that it was a happy occasion for his family when his elder daughter was born in 2012. PW2 stated that his wife told him about being pregnant with their daughter in 2012. PW2 stated that it was also a happy occasion for his family when his younger son was born in 2014, and he knew that his wife was pregnant with their son then as she had told him so. PW2 stated that when his daughter and son were born, his relationship with his wife was very good. PW2 stated that the relationship between his father and his wife including the neighbours was also very good. PW2 stated that his grandmother is about 88 or 89 years old and looked after by his wife.

PW2 stated that on **15 June 2020** he was at his uncle's place attending prayer and then returned home, and at home were his grandmother, his wife and their 2 children, who were all asleep. PW2 stated that he also went to sleep with his son in the sitting room, while his wife and daughter slept in the other room. PW2 stated that at that time he was not aware that his wife was pregnant. PW2 stated that he does not recall whether his wife told him that she was pregnant. PW2 stated that his dad called him from Nadi at 3pm on 15 June 2020. PW2 stated that his father asked him to go and check at their home as something had happened,

and upon checking he called and informed his father that everything is ok. PW2 stated that his wife, 2 children and grandmother were at home, and thought that his grandmother would be sick, and later informed his father that everything is ok at home. PW2 stated that he knows Sonu being his neighbour and worked as house girl at his place, wiping the windows, sweeping the house and help out in the rice farm. PW2 stated that when he told his father that grandmother is well, his father then told PW2 to ask Sonu about what had happened at their home. PW2 stated that he then called Sonu and asked her to come over to his place, and when Sonu arrived at his place, she then told PW2 that there is a deceased baby in the house. PW2 stated that he was present with his wife in a separate room when Sonu told him about the deceased baby kept in the house, while his grandmother and 2 children were elsewhere in the house. PW2 stated that his wife was sitting quietly and did not tell him anything regarding the deceased baby in the house. PW2 stated that he was shocked after hearing that, and then called his father to tell him what Sonu had just told him. PW2 stated that he is not aware of who gave birth to the deceased baby nor the reasons why the baby had died. PW2 stated that their neighbour Deva Nand came to the house and was told that Sonu had said that there is a dead baby, to which Deva Nand told PW2 that they need to call the police. PW2 stated that the deceased baby was placed in a bag and placed on top of a cylinder under the EFL meter box. PW2 stated that he did not actually see the baby; however, Sonu told him where and how it was kept, and PW2 did not know whether the baby is alive or dead. PW2 stated that Deva Nand then called the police who arrived at the house after 15 to 20 minutes later. PW2 stated that the police asked him as to what had happened, and he then took the police to the place where Sonu told him the baby is kept. PW2 stated that the police took a sample of his saliva at the station.

In **cross-examination** by Mr. Sen, PW2 stated that Sonal Sandhya Lata is his spouse since marrying her sometime in 2009, and after the marriage moved to Boubale and stayed in an extended family setting consisting then of PW2's father, mother, grandmother and grandfather, but both grandparents are now deceased. PW2 stated that he acquired his job at Westpac Bank in 2015, and when his first child was born in 2012, he then worked in Taveuni and his wife was with him. PW2 stated that in 2012 he was aware that his wife was pregnant with their daughter. PW2 stated that he was aware that his wife had stopped menstruating

when she conceived their daughter. PW2 stated that after their daughter was born, he lived in Savusavu working for the Savusavu Town Council. PW2 stated that his second child was born in 2014, and he was aware that his wife had conceived their second child and her menstruation had stopped. PW2 stated that he was not aware that his wife conceived on 15 June 2020. PW2 stated that the relationship between him and his wife after their second child was born was very good. PW2 stated that when he began working at Westpac Bank, he then stayed with his extended family at Boubale. PW2 stated that they were not planning to have another child, and his wife was not taking any contraceptive to prevent her from getting pregnant. PW2 stated that between September 2019 and June 2020 his wife had normal menstruation, and resided with his wife on a fulltime basis at Boubale, except when he attends a workshop, course, or meeting in Suva when he will be absent from home for at least a day. PW2 stated that they never left each other and continuously lived with his wife at Boubale. PW2 stated that his relationship with his wife was very good, and his wife looked after his grandmother and children, fed and put them to bed on time including making breakfast and lunch for PW2. PW2 stated that in 2019 and 2020 he shared the same bedroom and bed with his wife. PW2 stated that in 2019 until 15 June 2020 he did ask his wife whether she was pregnant, but informed by his wife that she has a cyst in her stomach. PW2 stated that he could tell that his wife was pregnant when conceiving their first and second child. PW2 stated that there was nothing to suggest that his wife was pregnant again in 2020. PW2 stated that Jotishna a.k.a Sonu also assisted his wife with house work.

PW2 stated that on **15 June 2020** he left at 7.30am for work at Westpac Bank, and the children remained at home. PW2 stated that Sonu does not cook at his house, but his wife cooks food for his grandmother. PW2 stated that on the morning of 15 June 2020 he had his breakfast and headed for work, while the others were still in bed and had their breakfast and food later. PW2 stated that on 15 June 2020 between 3pm and 3.30pm he received a call from his father. PW2 stated that he called Jotishna a.k.a Sonu to his home, and she told him that there is a dead body of a new born child in a bag. PW2 stated that Sonu showed him a bag which was closed containing the deceased baby. PW2 stated that he did not open the bag which was placed on top of a gas cylinder underneath the EFL box on the verandah situated outside the house. PW2 stated that his neighbour Deva Nand then came to the house. PW2

stated that Jotishna joined him and his wife Sonal Sandhya Lata in the bedroom to talk about how she came to know that there is a dead baby in the house, and PW2 did not want his grandmother and children to hear their conversation. PW2 stated that Jotishna never answered his question as to how she found out about the dead baby, and PW2's wife Sonal Sandhya Lata did not say anything to him. PW2 stated that his wife had a good and friendly talking relationship with Deva Nand and his wife Urmila. PW2 stated that on 15 June 2020 he returned home from work at about 3pm to 3.30pm, and him and the wife cooperated with the police.

In **re-examination** by the prosecutor, PW2 stated that the dead baby was not of his grandmother, and neither did Sonu tell him that that was her dead baby. PW2 stated that just because his wife's stomach was big and when he asked her, she said that she had a cyst in her stomach, and she never told him that she was pregnant at that time.

### **PW3 – Dr. Kaloanau Saukilagi**

14. **PW3 Dr. Kaloanau Saukilagi**, in **examination-in-chief**, testified that she is 30 years old, a medical officer at Labasa Hospital, Ministry of Health, and resides at Quarters 43A. PW3 stated that she has been a medical officer for 13 years since graduating in 2011. PW3 stated that she has been based at Labasa Hospital as emergency doctor for the past 10 years. PW3 stated that in 2020 she was based at the Labasa Hospital as emergency doctor. PW3 stated that she was on duty as medical officer at the Emergency department at Labasa Hospital when the police brought her the body of a baby before transferring the baby to the mortuary for safe keeping. PW3 stated that the baby she examined was deceased as it was not spontaneously breathing with no signs of life. PW3 stated that the baby was covered in a piece of cloth in a plastic bag, and when the police removed the baby out of the plastic bag, she could see lacerations on the scalp and anterior aspect of the neck of the baby. PW3 stated that '*anterior aspect*' in laymen's term mean the *anterior* is the frontal aspect of the neck, and *laceration* mean there is a cut on the skin. PW3 stated that the police asked her to make a statement of her physical examination, but she did not make any particular medical report because it is a forensic case and only the Forensic Pathologist will make a report on the case.

In **cross-examination** by Mr. Sen, PW3 stated that she attained her MBBS from the Fiji School of Medicine (FSM). PW3 stated that the police brought her a deceased body for her to examine. PW3 stated that the patient was not spontaneously breathing, there was no rising and fall of the chest, and no sign of life, concluding that the patient must have passed away. PW3 stated that she opined that the matter be referred to the Forensic department for determination of the cause of death, which is the case for all Paediatric cases under the age of 5 including a new born baby. PW3 stated that just by seeing the baby she could tell that it was born less than 28 days ago. PW3 stated that she knows about the gestation period and gynaecology. PW3 stated that just by looking at the baby, it is less than 28 days old and not born at the hospital. PW3 stated that she examined the umbilical cord of the baby, and the placenta was not attached and there was no umbilical cord, which umbilical cord usually falls off 5 to 15 weeks after birth. PW3 stated that before delivery there will be contractions, and for some they have to induce labour so that they don't have labour pain, which is done at the hospital. PW3 stated that labour pain is intensive which can last for minutes or hours, and women in labour need to be assisted when delivering a baby. PW3 stated that when delivering a baby, the mother becomes weak and frail, and someone else normally cuts the umbilical cord. PW3 stated that midwives normally deliver babies unless there is complication than they require the doctor. PW3 stated that some patients go through post-partum depression, and it is not uncommon. PW3 stated that she had nothing to deal with Sonal Sandhya Lata and so does not know whether she was referred to a psychiatrist.

In **re-examination** by the prosecutor, PW3 stated that in some instances women give birth outside the hospital referred to as '*born before arrival cases*'. PW3 stated that the new born baby examined by her was born outside the hospital.

#### **PW4 – Dr. Mereoni Voce**

15. **PW4 Dr. Mereoni Voce**, in **examination-in-chief**, testified that she is 62 years old, a retired medical officer, and resides at Delailabasa, Labasa. PW4 stated that before she retired, she was a medical officer for 32 years, re-engaged for another 5 years, thus served as a medical officer for a total of 37 years. PW4 stated that she served at the emergency department at the Labasa Hospital before retiring. PW4 stated that she attained her Certificate in Public Health

and MBBS from the Fiji School of Medicine (FSM), respectively in 1981 and 2006. PW4 stated that she served as an Assistant Medical Officer at Vunisea in Kadavu and Lautoka Hospital, and in 2003 she did the MBBS via in-service training graduating in 2006. PW4 stated that her other qualifications were attained via workshops in the area of emergency medicine. PW4 stated that for this case, she was asked by the police to write a statement regarding Sonal Sandhya Lata's previous medical condition on her mental status. PW4 stated that in her statement she had written that Sonal Sandhya Lata had no record of any previous mental problem according to the patient information system. PW4 stated that the patient information system is a programme in the computer that is used by the three divisional hospitals to keep patients records, patients admissions to hospital, patients prescribed medications, including all investigations done on the patient such as X-ray, lab test and other tests, and the doctor's name that saw the patient on a particular day. PW4 stated that the patient information system also records the mental condition or status of patients including the day they are admitted to a stress ward, and when the patient was seen by a psychiatrist, and their anti-psychotic drugs given. PW4 stated that she gave the police this particular information sometime in June 2020.

In **cross-examination** by Mr. Sen, PW4 stated that she couldn't recall when Sonal Sandhya Lata was brought into the hospital for examination, but she heard from other doctors that a dead baby was brought to the hospital. PW4 stated that based on her experience, generally a mother who has delivered a deceased baby is also psychiatrically assessed, which type of medical assessment was available in 2020. PW4 stated that being a medical practitioner for an extensive period she is knowledgeable in the area of female pregnancy and delivery of a child. PW4 stated that when a child is delivered in the hospital there are mid-wives, nurses and doctors to assist a mother to deliver a child. PW4 stated that in some cases labour can be induced, however, only obstetricians can actually give the medicine to induce labour, and she is not an obstetrician but a general practitioner. PW4 stated that even a mother delivering a child outside the hospital would still require assistance such as cutting of the umbilical cord and delivering the placenta after the child is delivered. PW4 stated that the pregnant mother actually experiences labour pain which intensifies during the contractions which can last for hours, and upon delivering the baby, the mother becomes weak and frail. PW4 stated that it is

not very common that some mothers, after delivering a child, suffer from post-partum depression and are prescribed anti-psychotic drugs.

In **re-examination** by the prosecutor, PW4 stated that mothers basically need assistance when delivering a baby, and she has not come across a case where a mother gave birth outside the hospital without any assistance from anyone. PW4 also stated that while working in the Emergency department, she had come across two cases of mothers delivering babies in the taxi on their own.

### **PW5 – Jotishna Pundit**

16. **PW5 Jotishna Pundit**, in **examination-in-chief**, testified that she currently lives in Anuve, Labasa, with her husband and 4 children, and have lived there for 1 year and 4 months, but prior to that she lived at Boubale. PW5 stated that her current occupation is that of domestic duties. PW5 stated that on 15 June 2020 she was working at her *Kaka's* or father's younger brother's/uncle's place looking after the grandmother whose name she does not know. PW5 stated that she use to feed the grandmother on time, plant rice, cut the rice and spread it for drying. PW5 stated that her *Kaka* (i.e. father's younger brother or uncle), brother and sister-in-law and their 2 children lived at Boubale with the grandmother she looked after. PW5 stated that the name of her brother is Navil Chandra, and that of her sister-in-law is Sonal. PW5 stated that on 15 June 2020 she was at her place when her sister-in-law rang and called her over to her place. PW5 stated that she then went over to her sister-in-law's place at about 11am, and upon reaching the sister-in-law's place, she sat for a while to rest and her sister-in-law then told her to cook the day's food, which she did. PW5 stated that when she went inside the kitchen, her sister-in-law came behind her and sat on a chair while she prepared to cook the food. PW5 stated that she asked her sister-in-law as to why she did not cook the food, to which the sister-in-law replied that she did not cook the food because she bled heavily and had stomach pain. PW5 stated that she believed her sister-in-law and then touched her stomach and noticed that there was a towel tied on top of her stomach which then fell off from within her dress which she wore at that time. PW5 stated that after the towel fell off, she then touched her sister-in-law's stomach again and asked her how did her stomach went inside because her stomach was blown up or big, to which she replied that for

PW5 to first feed the grandmother then she will tell PW5. PW5 then asked her sister-in-law several times as to whether she was pregnant, to which she said 'no'. PW5 stated that she asked her sister-in-law several times as to whether she was pregnant because she heard from others that she was pregnant, and when people or visitors visit their place, they always say, 'You don't do any housework because you are pregnant'. PW5 stated that she believed her sister-in-law when she said that she is not pregnant, but has some kind of sickness, in particular, a cyst. PW5 stated that on that day her sister-in-law's stomach had looked big because she had tied the towel on her stomach, however when the towel fell, her stomach looked normal. PW5 stated that after she fed the grandmother, combed her sister-in-law's daughter's hair, and taking her daughter and sister-in-law's son and daughter to sit near the grandmother, she then went to see her sister-in-law. PW5 stated that she went to see her sister-in-law, and told her that she wanted some vegetables, and then for her sister-in-law to tell her what she wanted to tell her. PW5 stated that her sister-in-law took her and showed her a baby in the dog's house. PW5 stated that the baby was wrapped in a mat, and when she opened the mat, she could actually see the front part of the baby's head eaten by mongoose. PW5 stated that she then asked her sister-in-law as whose baby it is, to which the sister-in-law replied that it is hers. PW5 stated that the baby was dead, and when she lifted the baby, the baby's neck went backward and saw a cut on the baby's neck, and later her sister-in-law took the baby away from her. PW5 stated that she believed her sister-in-law when she told her that the baby was hers. PW5 stated that the dog house is about 12 meters away from the main house, and the dead baby was placed inside the dog house. PW5 stated that her sister-in-law took the baby and wrapped it in a white cloth and place it in a Maggi bag. PW5 stated that she then started to cry, but her sister-in-law told her not to cry as grandmother would hear. PW5 stated that her sister-in-law told her what happened to the baby, that the umbilical cord was around the baby's neck and while cutting the umbilical cord she cut the neck. PW5 then told her sister-in-law that if she cut the umbilical cord, it would have been a horizontal cut, but there was a vertical cut on the neck. PW5 stated that her sister-in-law did not tell her husband because she was afraid, and went home crying. PW5 stated that her sister-in-law took the baby and placed it over a gas tank. PW5 stated that she then went home. PW5 stated that the dead baby was a boy. PW5 stated that from her home she then went to her *Kaka's* (i.e. father's younger brother or uncle) place, and informed her *Kaka* what had transpired and

asked for Navil's father's phone number. PW5 stated that she informed Navil's father of what actually happened over the phone, and he told PW5 for her to go to his house and he will be sending Navil over. PW5 stated that Navil arrived at her *Kaka's* place around 4pm to 4.30pm, and called her to come over to his place, which she did. PW5 stated that at her *Kaka's* place, her brother Navil asked her as to what his *Papu* (i.e. father) had told him was true, to which PW5 replied that it is true. PW5 stated that she told her brother Navil that her sister-in-law (i.e. Navil's wife) delivered the baby and she cut the baby's neck. PW5 stated that upon hearing this, her brother Navil started crying, and Sonal Sandhya Lata did not say anything. PW5 stated that at that time the Maggi bag containing the dead baby was placed on top of the gas cylinder in the kitchen. PW5 stated that thereafter she took Sonal Sandhya Lata for her bath. PW5 stated a Deva Nand reported the matter to the police. PW5 stated that she has known her sister-in-law since her marriage to Navil. Upon leave being granted for Dock ID, PW5 engaged in dock identification and positively identified her sister-in-law Sonal Sandhya Lata sitting in the accused gallery.

In **cross-examination** by Mr. Sen, PW5 stated that in school she reached Form 5, and can text, write, speak and understand English. PW5 stated that she is in Court to give evidence on what happened in 2020. PW2 stated that Sandhya is a married woman with 2 children attending school whom she loves and care for being a kind and compassionate mother. PW5 stated that she is close to Sandhya with no blood relation, and saw her almost daily. PW5 stated that being a mother herself, she related fairly well with Sandhya. PW5 stated that pregnant women normally attend clinics in the hospital. PW5 agreed that in this day and age most child birth happen in the hospital. PW5 stated that she went in the morning to Sandhya's house after she called her. PW5 stated that the house where Sandhya lives has 3 bedrooms, a sitting room, an additional room, and kitchen. PW5 stated that at the edge of the compound of that house there is a cane field which is about 40 to 50 meters away from the house. PW5 stated that it was usual that Sandhya prepares breakfast and lunch for her husband, and then cook dhal and rice for the grandmother, herself and PW5. PW5 stated that Sandhya called her to do the cooking because she was sick that day and it was also unusual because she normally cooks while PW5 attends to other chores in the house. PW5 stated that Sandhya took her outside and showed her something, and PW5 opened a mat, and as soon as

she saw the baby she felt shock. PW5 stated that the baby was motionless, and based on her observation she knew that the baby was dead. PW5 stated that after seeing the dead baby, she felt shock and upset, and then went home. PW5 stated that she managed to get Mr. Rajesh Chandra's telephone number and called him. PW5 stated that she knows Navil's telephone number, but did not call him. PW5 stated that Navil called her in the afternoon to go over to his place, which she did, and upon arriving at Navil's house, Sandhya was also there. PW5 stated that not long after she had arrived at Navil's house, Deva Nand also came. PW5 stated that Deva Nand, Navil, Sandhya, and herself had some discussion. PW5 stated that when she returned to Navil's and Sandhya's place that afternoon, the bag containing the dead baby was placed on a gas tank on the verandah, and it was her sister-in-law who had placed it there. PW5 stated that she is not a midwife and has never delivered a person's child, and would not know how to untangle the umbilical cord from the baby, nor cut the umbilical cord to detach the baby. PW5 stated that she has no idea as to where the child birth took place, nor the person who assisted Sandhya giving birth. PW5 stated that she does not know when Sandhya's contraction started and when she went into labour including who cut the umbilical cord. PW5 stated that Sandhya looked weak and upset on Monday morning.

In **re-examination** by the prosecutor, PW5 stated that she did not know who cut the umbilical cord when cross-examined by Mr. Sen; however, also maintained that her sister-in-law told her that she cut the umbilical cord. PW5 stated that after her sister-in-law showed her the baby, they conversed and then she left.

### **PW6 – Narendra Chand**

17. **PW6 Narendra Chand**, in **examination-in-chief**, testified that he is 60 years old, a farmer and resides at Boubale since birth. PW6 stated that he farms rice, vegetables and cane, and his farm is located just beside his house. PW6 stated that he could not recall his whereabouts on Friday 12 June 2020. PW6 stated that Ms. Sonal is his daughter-in-law. PW6 stated that in June 2020 he was at Boubale and Labasa. PW6 stated that he only visits his brother's house when he is there and does not talk to Sonal, but sees her from a distance of about 80 to 100 meters when he is planting rice on his farm at Boubale Settlement. PW6 stated that he has some issues with his eyesight, and was not aware that Ms. Sonal was pregnant at that time.

PW6 stated that if he sees Sonal, he would not be able to recognize her as he has eye issues.

PW6 was not cross-examined by Mr. Sen.

### **PW7 – IP. Gasio Rokodulu**

18. **PW7 IP Gasio Rokodulu**, in **examination-in-chief**, testified that this is his 19<sup>th</sup> year as a police officer, and have served in the Uniform, Traffic, Crime, and mostly in the Forensic Sciences Services. PW7 stated that he is currently based at the Forensic headquarters in Nasova, holding the posts of Assistant Superintendent of Police and Manager of the Forensics Department. PW7 stated that he served as scene of crime officer in the Eastern and Northern divisions, and before 2020, he was told to return back to the forensic headquarters. PW7 stated that a crime scene officer basically attends to reports referred by their CID colleagues mainly to take photographs, uplift latent prints, and collate other physical evidence. PW7 stated that he completed all qualifying courses at the Fiji Police Academy on crime scene investigation, and also attended some regional training mainly on forensic investigation. PW7 stated that his qualifications as a qualified crime scene examiner were obtained in India and Australia. PW7 stated that he was the crime scene examiner for this case in 2020 while based in Labasa. PW7 stated that on 15 June 2020 he received a call from the Divisional Crime Officer (DCO) Northern regarding a report of death at Bulileka, requesting the assistance of the CSI team to process the scene. PW7 stated that since he was in Tukavesi, he then directed Cpl Selema Bola to attend to the said report mainly to cordon and preserve the exhibit(s) found at the scene. PW7 stated that Cpl Selema Bola did as instructed, and the scene was attended to the next day on 16 June 2020. PW7 stated that he and CIS team attended the scene of crime on 16 June 2020 after being briefed by the DCO at Labasa Police Station. PW7 stated that upon arriving at the scene, it was guarded and cordoned by the Uniform Branch personnel. PW7 stated that the purpose of cordoning the scene is to preserve the exhibits such as those in biological form like blood, or physical in nature like a kitchen knife or clothing. PW7 stated that the scene was guarded and cordoned, and after being briefed by the DCO at the station including the Investigating Officer (IO) at the scene, they then began processing the scene. PW7 stated that they wore coverall, mask and gloves to prevent contamination of the crime scene. PW7 stated that they carried their

CSI kit consisting of measuring tape, exhibit bag, seal tape, tongs, empty containers, sketch kit, and camera to photograph the scene of crime. PW7 stated that photographs were taken of the crime scene, and a photographic booklet subsequently prepared, which was signed by him. PW7 was shown the photographic booklet and he identified his initials including the date and time of the photograph. PW7 confirmed that he took the photographs because the covering page state the photographer's name plus the IO; the Photo Log mention's his name as the photographer; and the stamps has his initials. The **Photographic Booklet** was tendered by prosecution via PW7 and marked **PE1**. The following sets of photographs were shown to PW7 who described each photograph as per the captions noting the descriptions of the respective photographs:

- 1) Crime scene photographs numbered 1 to 24;
- 2) Items uplifted from the crime scene photographs numbered 1 to 13; and
- 3) Autopsy photographs numbered 1 to 18.

PW7 stated that the blue form headed *General Samples – Advice Letter to Analyst* dated 25/06/2020 contains the list of samples of physical and biological evidentiary materials uplifted from the crime scene and autopsy, and it was filled and signed by him, and later submitted to the Forensic Biology Lab at Nasova for DNA comparison analysis. The said blue form was tendered by prosecution via PW7 and marked **PE1A**.

In **cross-examination** by Mr. Sen, PW7 stated that as crime scene investigator, the investigation must be impartial and done without fear or favour, and the crime scene and collected samples are well preserved and not contaminated. PW7 stated that in the course of the investigation, one must not infringe upon a suspect's constitutional right. PW7 stated that police officers are normally issued notebooks to record what transpires in the course of an investigation; however, PW7 could not produce his notebook in relation to the investigation of this particular case because, according to PW7, this incident happened in 2020 and he has moved back to Suva, and that notebook was handed over in Labasa. PW7 stated that the police have standard operating procedure (SOP) when conducting an investigation, despite not showing the Court via a document showing exactly the method or procedure adopted by the police in carrying out the investigation at the scene of the crime, taking photographs, and uplifting biological and physical evidentiary materials for forensic analysis. PW7 stated that

he took every single photograph contained in the Photographic booklet – **PE1**. PW7 stated that he had stated in his statement that on 15 June 2020 he was in Tukavesi when he received the report, but attended the crime scene on 16 June 2020. PW7 acknowledged that the date on the Photo Log should have been 16/06/2020 instead of 15/06/2020. PW7 stated that he used a Canon Digital camera to take the photographs. PW7 stated that he cannot recall when the body of deceased baby was conveyed to Labasa hospital. PW7 stated that he took the photographs including that of the deceased baby (i.e. Photographs no. 4, 5, 6 and 7 at the crime scene) on 16 June 2020. PW7 stated that he was advised by the Investigating Officer (IO) that Sonal Sandhya Lata was the likely suspect, which made him record the said suspect's name in the blue form headed ***General Samples – Advice Letter to Analyst dated 25/06/2020 - PE1A***. PW7 stated that when he submitted the blue form - **PE1A**, at that time only the death certificate is issued but not the post-mortem report which normally takes two weeks for the pathologist to prepare including the forensic biology report because the relevant physical and biological samples were still being submitted for analysis sake. PW7 stated that as crime scene examiners, they receive instructions from the IO on what to focus on during the crime scene examination, and uplift physical and biological materials relevant to the investigation. PW7 stated that the collected samples were given to the biologist on 25 June 2020 and received by Eta Kedrayate. PW7 stated that the CSI Office in Labasa has a CSI Lab where physical exhibits are kept awaiting approval for it to be taken to Suva for analysis at the Forensic Lab. PW7 stated that the samples collected from Boubale were kept at the CSI Office located on the top floor of the Labasa Police Station looked after by three personnel. PW7 stated that he is the only personnel who had the key to the CSI Office, and in 2020 one of their staff was on sick leave for 3 months when this incident happened. PW7 admitted that there is an evidence recovery log book where they enter what has been collected from the crime scene, which log book is always submitted to the Investigating Officer; however, PW7 could not produce the said log book in Court as he did not have it in his possession at the trial, but stated that the original copy was submitted to the prosecutor. Mr. Sen then put to PW7 that consent of the suspect and her husband were not obtained for the collection of their buccal swabs. PW7 stated that the consent of the suspect and her husband were obtained when their buccal swabs were collected, which consent are contained in the consent form given to the prosecutor including the date in which the consent and

specimens were obtained. PW7 could not show the consent form in Court because he did not have it in his possession. PW7 stated that consent was obtained at the CID Office in Labasa during the caution interview of the suspect, which he did not conduct. PW7 stated that for a buccal swab to be collected, the Investigating Officer is always advised to ask the suspect for his or her consent during the caution interview, and if there is no consent obtained during the caution interview, then they won't come forward to collect their buccal swab. PW7 stated that it is imperative that consent is obtained before taking a buccal swab and test it. PW7 stated that he did not conduct the interview, but he obtained the consent upon the request of the Investigating Officer when the interview was suspended for the collection of the buccal swab. PW7 stated that their procedure is that after they have completed with all documentation in a particular case, the relevant documents are handed over to the Investigating Officer and they do not keep anything in their possession. PW7 stated that he wrote his statement, and can't recall where the saliva sample of the suspect was collected, but to his knowledge it was taken at the CID Office in the presence of the interviewing officer and witnessing officer. When shown his statement, PW7 then said that on 18/06/2020 at Labasa hospital he used the FTA Buccal kit to collect the saliva of the deceased mother and her husband, respectively at 1305Hrs and 1310Hrs. PW7 stated that he collected the saliva samples of the deceased mother and her husband using the FTA Buccal swab at the Labasa hospital upon their consent. PW7 stated that he obtained Sonal Sandhya's consent to obtain her saliva sample, and the consent document was handed over to the DPP's Office. PW7 stated that in his statement he stated that Dr. Daniel uplifted hair sample of the deceased baby during the post-mortem, and they did not need the mother's consent for that. PW7 stated that the consent form was handed over to the Investigating Officer. PW7 stated that the deceased baby was inside the house at the laundry area, but can't recall on what date it was removed from the house and where it was taken, and their role is to pack the deceased into a body bag before it is handed over to the Investigating Officer who escorted it to the Labasa hospital.

**PW8 – Dr. Daniella John**

19. **PW8 Daniella John**, in **examination-in-chief**, testified that she resides in Lami and is currently the Pathology Registrar at CWM hospital and started in this position since February 2024, and prior to this from February 2013 to December 2023 she was Senior Pathology

Registrar at the Forensic Pathology Unit of the Fiji Police Force. PW8 obtained her MBBS in 2009 from the Fiji School of Medicine, and attended short courses in the area of Pathology such as Disaster Victim Identification (DVI) and Management, Analysis and Interpretation of Skeletal Trauma, and attending the RCBA conference. PW8 stated that her role as Forensic Pathologist at the Fiji Police Force is to perform medical legal autopsies on unnatural causes of death, and she has conducted over a thousand post-mortem at the Fiji Police Force Forensics Unit. PW8 stated that for this matter, she performed the autopsy on a deceased baby at the Labasa hospital and recorded her autopsy findings in a report which she also signed on page 8. The **Autopsy Report dated 18.06.2020 by Dr. Daniella John** was then tendered by prosecution via PW8 and marked **PE2**. PW8 stated that she examined the dead body of the baby of Sandhya Lata on 18 June 2020.

PW8 then explained her findings on External Examination and stated that: 1) the body was that of a *non-dysmorphic* meaning normal looking with no abnormal features; 2) *Neonate* means a baby that is born and under the age of one month; 3) the weight of the deceased baby is 2900g which falls between the range of 2.5 to 3.3 kg which is normal for a term or 9 month old baby; 4) head circumference is 3.12 centimeters which falls in the normal range; 5) chest circumference was 30 centimeters; 6) feet length was 8.3 centimeters; 7) crown rump length which measures from the top of the head to the lower back was 31 centimeters; 8) crown heel which is the top of the head down to the back of the heel or the length of the deceased baby was 52 centimeters. PW8 opined that the baby was a full term or 9 months old baby based on the aforesaid measurements. PW8 stated that the *umbilical cord* connects the baby to the mother, and found that it was intact measuring 45 centimeters in length from the placenta to the proximal end. PW8 stated that the *placenta* is what attaches in the mother's womb and that is where the baby gets everything including nutrients and gas exchange from the mother. PW8 stated that the *proximal end* is the very end of the cord usually on the baby's end. PW8 stated that the *proximal end* was not attached to the deceased baby. PW8 stated that the *proximal end* of the umbilical cord had sharp, clean edges with a section of skin attached to it, which could have been caused from a cutting edge of a sharp object, or in some cases if the mother delivered in a standing position and the baby falls resulting in a snapped cord. PW8 stated that the abdominal wall showed a haemorrhagic or bloody slash

wound or cut at the *umbilicus* with skin around it missing. PW8 stated that in laymen's term, the *umbilicus* is the belly button which forms after the cord falls off. PW8 stated that there was no cord where it should have been due to, as explained earlier, it either snapped or was cut. PW8 stated that the umbilical cord given to her to examine was of complete length, and the placenta was complete meaning everything from inside the mother's womb attached to her womb had come out. PW8 stated that the *peripheral cyanosis* or finger nails of the deceased baby appeared blueish. PW8 stated that the neck of the deceased baby had an incised wound or cut measuring 6 x 4.7 x 2 centimeters noted or seen over the anterior or front of the neck with haemorrhaging into surrounding tissues or bleeding into the tissues around the cut. PW8 stated that the wound on the neck was shallow with multiple superficial incisions or cut noted on the right side and being deeper with clean edges to the left. PW8 stated that the cervical vertebrae or spine was visible through the open wound. PW8 stated that the incised wound on the front of the deceased baby's neck had clean edges caused by an object with a sharp edge such as knives, axes, choppers, even blades, propeller blades of boats. PW8 stated that for a very sharp knife, it does not take a lot force to inflict a wound like that on the deceased baby's neck. PW8 stated that it is not normal to see the cervical vertebrae or spine through the open wound because structures like the airway are in front of the spine. PW8 opined that the wound is quite deep if the spine is visible through the open wound. PW8 stated that the crime scene officer was also present and took photographs during the post-mortem. PW8 stated that she can ascertain those photographs taken during the post-mortem through the MLC number, and the designated MLC number for this case is 41, a form of identification of the post-mortem photographs to prevent them mixing up the cases. PW8 was then shown the Photographic booklet [ **PE1** ] and stated: 1) the MLC number is on the white piece of paper in each photograph of the post-mortem examination; 2) Photo nos. 4 & 5 show the incised wound measuring 6 x 4.7 x 2 centimeters on the anterior aspect of the neck; 3) Photo no. 6 show the deceased baby with no umbilical cord stump. PW8 stated that for neonates or newborn babies their umbilical cord is cut and a certain amount of the umbilical cord is left on the baby's abdomen which is usually tied or clamped before it is cut; but in this instant, there was no such clamped cord on the baby's abdomen. PW8 stated that if there is cord left in place, such as in this instant, the baby is at risk of having fistula or opening formation and infection if it is not well looked after. PW8 stated

that the cord allows time for the baby's skin on the abdomen to heal and close properly. PW8 stated that there are cases where babies born with snapped cords have survived.

PW8 stated that the scalp is the skin over the top side and back of the head, and in this instant, she found that a circular section of the scalp involving the frontal and parietal regions of the head was missing with predation marks noted at the edges. PW8 stated that *predation marks* are marks caused by insect or animal i.e. dog or mongoose bites that live within that area or surrounding. PW8 stated that there was nothing remarkable about the skull. PW8 then referred to page 4 of the post-mortem report under respiratory system and stated that the lungs were hyper expanded or filled out with *crepitanacy* in both lungs. PW8 stated that *crepitanacy* is usually indicative of air or fluid in the tissue, and if popped sounds like a bubble wrap being popped. PW8 stated that when the lungs were hyper expanded it means that the lungs are bigger due to being air rated or filled with air. PW8 then read out her findings under the subheading Lungs Right Lung g, Left lung g in page 4 of the **Autopsy Report** [ **PE2** ] – *'The lungs were hyper extended with crepitanacy noted in both lungs. The visceral pleural surfaces or outer surface of the lungs appeared pink and mottled. The cut surface of the parenchyma or internal tissue of both lungs showed pulmonary congestion. There was no evidence of pulmonary infection or infraction. No tumour was seen in the lungs or bronchi'*. PW8 stated that *'pink and mottled'* means that it looks like how normal lung tissue that has air in it looks like. PW8 opined that the lungs indicate that breaths were taken. PW8 opined that the cause of death noted in part (a) *Disease or condition directly leading to death* in page 8 of the **Autopsy Report** [ **PE2** ] is *Exsanguination* which is a medical term for excessive or severe blood loss as a result of incised wound to the neck noted in part (b) *Antecedent causes*. PW8 stated that *External causes* refer to what was the underline cause of the incised wound would have been from the sharp force trauma to the neck. PW8 stated that in photographs no. 7 and 8 – NMLC 41/20 in the **Photographic Booklet** [ **PE1** ] are shown the blue nail beds of the deceased's finger nails and toe nails that she had referred to earlier. PW8 stated that photograph no. 9 – NMLC 41/20 is an internal view of the skull after the scalp is open. PW8 stated that photograph no. 10 – NMLC 41/20 is reflecting the edges of the incised wound on the deceased baby's neck, while photograph nos. 11 and 12 show how deep the wound goes by reflecting the edges. PW8 stated that photograph no. 14 – NMLC

41/20 is known as a *Hydrostatic* test to check if the lungs had been air rated or filled with air, and when put in water, if the lungs float than it suggests that that individual had breathed in air, and if it sinks than the individual had not breathed in air. PW8 stated that in photograph no. 14, it looks likes the lungs are floating, but the test can be unreliable because one has to take into account other factors like decomposition, or if the individual has received any form of resuscitation or given oxygen. PW8 stated that photograph no. 16 – NMLC 41/20 is what she was referring to as the proximal end of the umbilical cord that has a section of skin attached to it. PW8 stated that photograph no. 17 – NMLC 41/20 shows the placenta and the entire length of the umbilical cord. PW8 stated that the placenta after the child is delivered, then the placenta is delivered, and for some women the placenta can be delivered within a few minutes or as long as 30 minutes after the baby is delivered. PW8 stated that when delivering the placenta, the woman still experiences contraction to assist in the expulsion of the placenta, but it is not as severe as child birth, and in some instances, some women do not experience pain when delivering the placenta, and the placenta just comes out without any help.

In **cross-examination** by Mr. Sen, PW8 stated that because they do not have the recording device available during the autopsy, they instead have a post-mortem book where their findings are recorded, and it is a book kept by individual doctors who fill in their own books. PW8 stated that documentation of the findings is done after the post-mortem is completed as they are unable to de-gown i.e. remove their personal protective gear during the procedure to record every little detail. PW8 stated that the post-mortem can be for an hour and at the most 3 hours depending on how extensive the injuries are, and in this case, it would have been between 1 to 2 hours or 2 to 3 hours. PW8 stated that commencement and completion times of the post-mortem is usually recorded by the Investigating Officer, which was not done in this case. PW8 stated that because she is not based in Labasa, she flies in to conduct the post-mortem and then flies out and takes her own notes prior to documenting her findings in the post-mortem book, which is the property of the Forensic Pathology Unit. PW8 stated that the book contains short notes which is usually checked by her consultant or head of unit, and later transferred into the actual post-mortem report which she types herself. PW8 stated that she writes down the pertinent findings, history and what needs to be put into the post-mortem

report. PW8 stated that people who are usually present when she conducts a post-mortem are the Crime Scene Photographer who is responsible for documenting injuries, the Investigating Officer to whom this case belongs, and the Attendant who is also a police officer who has been trained to assist in the post-mortem examination. PW8 stated that this post-mortem report template is taken from the Inquest Act of 1967, and when she joined the unit, she was instructed to put down the Investigating Officer who had attended to the case because he is responsible for the investigation pertaining to the deceased, and in this case it is Detective Constable 5089 Vikash. PW8 stated that the post-mortem was ordered by ASP Eroni. PW8 stated that at that time she was under the Forensic Science Services of the Fiji Police Force as a civilian with no particular police rank. PW8 stated that in the post-mortem report the IO noted that Navil R. Chandra identified the deceased baby as his son and the baby of Sandhya Lata. PW8 stated that she compiled the post-report report after receiving the crime scene photographs. PW8 stated that she is Pathology Registrar and in the process of becoming a pathologist. PW8 stated that a Doctor James is a qualified pathologist and currently with the Fiji police, and a former pathologist whom she started working under was Doctor Puna Sami Goundar. PW8 stated that a still born baby is a baby that is delivered dead, that is, the baby died in the womb and comes out dead. PW8 stated that the individual will have to be certified dead before she can perform a post-mortem, and the essence of doing post-mortem is to determine if there are signs that there was life after delivery. PW8 opined that the baby was alive upon delivery based on, for instance, i) on page 1 of the **Autopsy Report** [ **PE2** ] under *External Examination*, the presence of *peripheral cyanosis* requires the lungs and heart to be functioning in order for that to occur, which indicates that bleeding and respiratory system has been activated after delivery; and ii) on page 4 under *Respiratory system*, the lungs were hyper expanded with *crepitanacy* noted in both lungs, the visceral plural surfaces or outside surfaces of the lungs appeared pink and mottle, and the cut surface of the *parenchyma* or internal tissue of both lungs showed pulmonary congestion. PW8 stated that still born babies she has seen, their lungs will be shrunk and not be hyper inflated due to not being air rated or no air going into the lungs. PW8 stated that she did not find milk in the deceased baby's stomach, as they normally check for the presence of milk or food to find out whether the child has been fed at any point after delivery. PW8 stated that she conducted the *Hydrostatic* test in this case bearing in mind that this post-mortem was performed 3 days after the date of

death so she had to keep in mind that the deceased child was found in an environment where decomposition can easily take place, and the only reason for conducting the said test was to see whether it was going to be positive or negative, but she did not put that in the post-mortem report because there has been issues with that test regarding its reliability as it is not really reliable because she has to fact in other variables. PW8 stated that they do not only take into account the findings on the lungs to determine whether the baby was born alive, but considered other external examination, for instance, where the deceased had *peripheral cyanosis* and incised wound or laceration on the neck. PW8 stated that the fact that the post-mortem was done 3 days later and the deceased's body being exposed in an environment where decomposition can easily take place, this is a factor that can compromise the *Hydrostatic* test, but it does not disprove the lungs were air rated, and one will have to consider other findings from the post-mortem to then adequately come to the conclusion that the baby was alive after delivery. PW8 stated that the lungs were hyper expanded with *crepitanacy* noted in both lungs. PW8 stated that decomposition normally starts from the abdomen and then it moves up, and in this case, she had to bear in mind that there was some degree of decomposition while performing the post-mortem including the *Hydrostatic* test. PW8 stated that a baby can still survive despite the umbilical cord being entirely severed. PW8 stated that failure to clamp the umbilical cord does not cause blood loss to the baby.

PW8 was not **re-examined** by the prosecutor.

#### **PW9 – Dr. Penaia Dimuri**

20. **PW9 Dr. Penaia Dimuri**, in **examination-in-chief**, testified that he is a senior registrar at the Obstetrics and Gynaecology department at the CWM hospital for 5 years. PW9 stated that prior to that, he has been stationed at Labasa hospital in 2019 to 2022 and Taveuni hospital. PW9 stated that he was a registrar when stationed at Labasa hospital based at the Obstetrics and Gynaecology department. PW9 stated that he has a Bachelor of Medicine and Bachelor of Surgery (2016) from the Fiji School of Medicine, Postgraduate Diploma in Obstetrics and Gynaecology (2021) from the Fiji National University and Postgraduate Diploma in Sexual Reproductive Health (2023) from the University of Sydney. PW9 stated that on 16 August 2020 he was on call for the whole of that day at Labasa hospital. PW9

stated that he examined this patient who was brought in by police and asked to fill in the medical report about her. PW9 stated that he signed the medical report and can recognize the same. Leave was then granted by the Court for PW9 to be shown the medical report. Upon being shown the medical report, PW9 confirmed the same to have been filled in by him for Sonal Sandhya, and signed it on page 4 after the examination and dated 16 August 2020. PW9 confirmed his initials on the medical report. PW9 stated that the patient was brought in by the police very late in the evening after she had delivered outside of the hospital and he was asked to examine the patient. PW9 stated that he had asked the patient for her consent and she gave verbal consent prior to being examined in the Labour ward at the hospital. PW9 stated that he explained to the patient of what she will be examined for given that they had brought her in after she had delivered to ensure that did not have any tears or was not bleeding heavily, and to manage her accordingly. PW9 stated that in D(12) of the medical report, he found that she had palpable *uterine fundus* which is suggestive of *postpartum uterus*. PW9 stated that *postpartum uterus* is the way the uterus feels after delivery, and on specular examination of the cervix using a specular, he noted that the cervix looked like a postpartum cervix with some retained products of conception which was removed from the cervix. PW9 stated that sometimes after delivery, there can be some blood clots and placental membranes that can still be present after expulsion or delivery of the fetus and placenta, which were then removed after the speculum examination. PW9 stated that if the products of conception are not removed then the patient will keep bleeding. PW9 stated that in D(14) he was of the opinion that his examination findings were suggestive of a normal vaginal birth or delivery. PW9 stated that in D(15) on Clinical Management, they had done a routine blood work, a pelvic ultra sound scan to confirm that she did not retain any other products of conception, and managed her accordingly. PW9 stated that he had indicated on the human diagram in page 5 of the medical report the palpable *uterine fundus* that he had described and noted in section D(12)(a) of the medical report. PW9 stated that when he examined the patient, she was alert and oriented to time, place and person, and found her to be stable and not disoriented, and had the capacity to consent for an examination and history taking. PW9 stated in D(10) is the history given to him by the patient – *‘Patient unsure of events prior or after delivery. All she remembers is that she delivered a baby in a cane field sometime in the afternoon’*. PW9 stated that to his understanding the police officer who had brought in the

patient had filled in page 1 of the medical report. PW9 stated that he medically examined the patient on 15 June 2020, which examination concluded at 11.15pm. The prosecution then tendered via PW9 the **Medical examination form and report of Sonal Sandhya Lata dated 15 June 2020** and marked as prosecution exhibit 3 [ **PE3** ].

In **cross-examination** by Mr. Sen, PW9 stated that he could not recall having received a call on 15 June 2020 from the hospital supervisor informing him that a woman had delivered earlier that day in Bulileka, and the police were requesting for an ambulance, and a midwife had gone to retrieve the mother and baby to the hospital. PW9 stated that if shown his statement which he wrote and signed on 22 June he would be able to recall. Leave was then granted by the Court for PW9 to be shown his writing, and upon being shown the statement, PW9 confirmed that it is his writing, and he indeed received a call and an ambulance was dispatched to Bulileka to bring the baby and mother to the hospital on the 15<sup>th</sup>. PW9 stated that the baby and mother were brought to the hospital in the evening at 10.30pm on 15 June 2020. PW9 stated 'Yes' to affirm that a police officer would have accompanied the mother and deceased baby to the hospital. PW9 stated that his initial observation as to the disposition of the mother was that she looked very pale and weak, and she said that she could not recall what happened before and after her delivery. PW9 stated that in section D(11) – Initial impression of the person to be examined of **PE3**, he noted that the patient was '*alert, oriented to place and person*'. PW9 opined. in the medical report i.e. **PE3**, that she be referred for psychiatric assessment and evaluation. PW9 stated that he was the medical registrar at the hospital at that time. PW9 stated that their management plan initially was to manage her obstetrically, once she was stable then she could be referred to the psychiatric department after 2 weeks postpartum. PW9 could not recall as to how many days she was admitted in the hospital, and it would have assisted if he had the relevant folder. PW9 stated that generally when a female is examined, a female nurse or female police officer would also be present during the examination. PW9 stated that he would generally rely on his team like a midwife and female nurse to communicate with the patient. PW9 stated that examination of the patient was by request of the police officer, and he found it prudent to examine her for the sake of her health. PW9 stated that for preparation of a medical report for court purpose, the police officer is the person who fills a police medical examination form, and in this instant, it

was filled by D/Cpl.2440 Fandan Ali. PW9 stated that the consent is done by him or whoever examines the patient. PW9 stated that he can't recall as to what language was used to ask for the patient's consent to be medically examined, and if needed a translator in the room on that day, however he can remember that he was able to communicate with her in English. PW9 stated that when she was presented to the hospital on that day, they had searched on the practice system to see if she had any prior scan before delivery, and PW9 recalled that they found a scan prior to her delivery, which confirmed that she was indeed pregnant before. PW9 stated that he is not sure of the date of the prior scan. PW9 stated that in relation to his findings in section D(12), one can do an examination without the scan and still confirm that she had delivered. PW9 stated that *'Postpartum cervix noted on speculum examination with some clots still visible at the cervical os'* is noted in section D(12)(b). PW9 stated that a speculum examination was done to view the cervix, which is a physical examination, and it was done without referring to the scan. PW9 stated that after he had seen the patient, he opined as noted in D(15) – Prognosis, recommendations & follow-up that she be cleared from the Obstetrics and Gynaecology department, and a psychiatric review was important to be done in the Stress Management ward to determine her mental condition. PW9 stated that Sonal Sandhya was disoriented when he examined her, and unable to recall the events. PW9 stated that he cannot recall Sonal Sandhya's face. PW9 stated that generally a woman who gives birth outside or within the hospital need assistance to deliver the baby. PW9 stated that before delivery, a woman experiences labour pain which may last for some period of time, and this takes a lot of energy away from the woman and weakens her, and therefore need to be cared for. PW9 stated that the reason why they had asked for psychiatric review for this case was because of the fact that it was an infant death. PW9 stated that the recommendation for postpartum psychiatric review is not a usual recommendation for a normal delivery, but in this case yes. PW9 stated that they refer the patient to the psychiatric department so that they can assess the patient's mental health and state of mind, and how the patient is dealing with the loss after delivery. PW9 stated that for women who deliver a stillborn child is usually referred to the psychiatric department, psychologist or counsellor for some sort of mental health support. PW9 stated that the duration of the psychiatric evaluation will depend on the psychiatrist's evaluation of the patient, and this varies depending on what spectrum of postpartum depression or psychosis, then whatever diagnosis is given by the psychiatrist that

will be the duration of the treatment and whether they need follow up. PW9 stated that he did not have the opportunity to view the relevant psychiatric review report.

In **re-examination** by the prosecutor, PW9 stated that the patient is referred to the psychiatrist for mental assessment and also to help the patient deal with the loss of the child.

### **PW10 – Nacanieli Gusu**

21. **PW10 Nacanieli Gusu**, in **examination-in-chief**, testified that he is currently a scientific officer at the Forensics Biology and DNA Lab based in Nasova, and reside in Nausori. PW10 stated that this is his 6<sup>th</sup> year as scientific officer holding a Bachelor of Science degree majoring in Biology and Chemistry from the University of the South Pacific attained in 2012. PW10 stated that his role as scientific officer involve carrying out forensic scientific examination on forensic exhibits including DNA analysis on the cases received, manage the instruments that they use at the forensics lab in terms of maintenance, and carrying out DNA profile comparisons and composition of DNA reports. PW10 stated that they have been trained on all aspects of DNA analysis by other overseas forensic scientists from their forensic overseas counterparts from Australia and New Zealand who usually visit on a yearly basis for refresher training on DNA analysis. PW10 stated that he was the case officer for this case responsible for ensuring that the exhibits submitted for the case are examined, and the evidence of samples are forwarded for DNA analysis and complete their DNA analysis work flow. PW10 stated that he is also responsible for interpreting the results and compiling a DNA report for Court purposes. PW10 stated that he did the DNA analysis on the evidence of samples and compiled the relevant DNA report for this matter and signed it as well. PW10 stated that if shown his signature on the report he would be able to recognize it. Leave was then granted by the Court for PW10 to be shown the report. When shown the report, PW10 stated that it is a DNA report that he compiled for this case, and his signatures are on the bottom right corner of every page of the report countersigned by the principal scientific officer on page 7 of the report. PW10 stated that the DNA was compiled in relation to one baby X and Sandhya Lata. PW10 stated that DNA is the building blocks of genetic information that is present inside the cells of human body, and it contains genetic information about a person in terms of their appearance or what they look like. PW10 stated that DNA

can tell us about a person's appearance or what they look like including the colour of their hair and skin, and it is unique to a person, and no two persons can have the same DNA except for identical twins. PW10 stated that there are 4 stages of DNA analysis, the 1<sup>st</sup> stage being the extraction stage i.e. to extract DNA from the human cells; the 2<sup>nd</sup> stage is the quantitation process i.e. to find out how much DNA is present on the sample that was extracted in stage 1; the 3<sup>rd</sup> stage is the PCR stage i.e. to amplify a segment of DNA that is present; and the 4<sup>th</sup> stage is the electrophoresis stage i.e. to analyse the product from stage 3, and it gives the results as a raw data which is then uploaded into an interpretation software in the computer, and the software gives the DNA profiles. PW10 stated that the 4 stages described earlier are conducted in their DNA lab based at Nasova in Suva. PW10 stated that everyone at the forensic DNA lab is trained to conduct all different stages of analysis, so every week there are different persons rostered into conducting different stages of analysis. PW10 stated that in page 2 of his report under *2.0 Custody of items*, it has 2 parts and under *2.1* is the *Receipt of items* and this is annexed in Appendix 1 in pages 8 and 9 which items were submitted to the lab by Detective Sergeant Gasio, and contains the reference samples that were collected from the persons of interest including the evidential exhibits collected from the scene. PW10 stated that all the items submitted by Detective Sergeant Gasio were received by Eta Kedrayate a scientific officer at the Forensics DNA lab. PW10 stated that *reference samples* are known samples that were collected from the persons of interest in a case, and the purpose of collecting *reference samples* is to provide them with a DNA profile of each person, and so the *reference sample* collected from Sandhya Lata will provide them the DNA profile of Sandhya Lata, and likewise for Navneel Chandra. PW10 stated that the *reference samples* collected from Sandhya Lata and Navneel Chandra were collected from their inner cheeks of their mouth. PW10 that the *reference sample* for the baby was a blood sample collected from the postmortem, which blood sample provided them the DNA profile of the baby i.e. baby X. PW10 stated that he believed that the *reference samples* were collected by Detective Sergeant Gasio. PW10 stated that there are 2 ways *reference samples* are collected, i) is through the mouth whereby an applicator is rubbed gently on the inner cheek of a person which collects the buccal cells from the person's mouth; and ii) is through blood. PW10 stated that he received the buccal *reference samples* of Sandhya Lata and Navneel Chandra collected from their mouth, which *reference samples* provided the

respective DNA profiles of Sandhya Lata and Navneel Chandra. PW10 stated that a DNA profile is the DNA amplification kit noted in page 4 of the report. PW10 stated that the DNA application kit that they use looks at 24 specific locations on the DNA strand, and the 24 locations are present on everyone's DNA. PW10 stated that on page 4 of the report, the 3 tables represent the DNA profiles of the 3 persons of interest for this case, and the 24 columns on the 3 tables represent the 24 locations earlier mentioned including the scientific name of each location noted on the top of each of the 24 columns. PW10 stated that the 1<sup>st</sup> table on page 4 of the report is the DNA profile of Sandhya Lata; 2<sup>nd</sup> table is the DNA profile of Navneel Chandra; and 3<sup>rd</sup> table is the DNA profile of the baby i.e. Baby X. PW10 stated that the numbers present in each column at each location are known as *Alleles* which are specific forms of a gene, and each person inherit their *Alleles* from their parents i.e. 50% comes from the mother and 50% comes from the father. PW10 stated that when looking at the tables on page 4 of the report, every single person would have different *Alleles* or numbers at each location in their DNA profile, except in some cases where there are *Alleles* known as common *Alleles* that can be present and be the same for two persons even if they are not related. PW10 stated that after obtaining the 3 DNA profiles noted on page 4 of the report, he then carried out the DNA profile comparison whereby he compared the DNA profile of Baby X to the DNA profiles of Sandhya Lata and Navneel Chandra by examining each location. PW10 stated that when comparing each location of the DNA profile of Sandhya Lata and Baby X, he found that there was 50% match between Sandhya Lata and Baby X. PW10 stated that he had stated earlier that 50% of the DNA comes from the mother and 50% comes from the father, so 50% DNA match to Sandhya Lata confirm that she is the biological mother of Baby X. PW10 stated that when he compared the DNA profile of Baby X to the DNA profile Navneel Chandra, he found that the match did not come to 50%, which excluded Navneel Chandra as the biological father of Baby X. PW10 stated that for the exhibits that were submitted to the laboratory noted in page 3 of the report, one of the exhibit that he had assigned and forwarded for examination was a kitchen knife i.e. Exhibit 12. PW10 stated that when examination was done on the kitchen knife, the samples that were uplifted from the kitchen knife were labelled as Sub-exhibits 12.1 to 12.9. PW10 stated that he generated DNA profiles for the samples labelled Sub-exhibits 12.1 to 12.9 uplifted from the kitchen knife i.e. Exhibit 12, and the DNA profiles are noted on pages 5 to 7 of the report.

PW10 confirmed his signature under his name on page 7 of the report, and he compiled the report. Prosecution then tendered the PW10's **DNA report** entitled *Forensic report in the examination of items in relation to Baby X (Victim) and Sandhya Lata (Suspect) by Nacanieli Gusu (Forensic Biologist), Forensic Biology Laboratory Number: 20-06-F-07, dated 05/10/20* as prosecution exhibit 4 [ **PE4** ].

In **cross-examination** by Mr. Sen, PW10 stated that he was not given a copy of the letter by the office of the DPP. PW10 stated that his primary qualification is Bachelor of Science. PW10 stated that he does not have with him in Court the certificates from overseas and local trainings that he had done on DNA analysis. PW10 stated that one must be trained in order to do DNA extraction and analysis. PW10 stated that once they join the Biology and DNA Lab, they usually do through trainings for 2 to 3 years before they can carry out analysis by themselves, which trainings are carried out by other forensic scientist from major forensic labs overseas because there is no forensic training institution locally, and that is the reason why they come over and train them on DNA analysis processes. PW10 stated that he cannot provide the Court with any document as proof of him attending the said trainings, nor recall if there was any certificate issued from those trainings. PW10 stated that the lab he works for comes under the Fiji Police Force. PW10 stated that he knows that laboratories have to be accredited, and the lab that he works for is not accredited. PW10 stated that there are instruments used for DNA extraction and analysis. PW10 stated that the instruments that they use are serviced and maintained by the technicians of the company that supply the instruments who visit labs and check on the instruments and carry out yearly maintenance, etc. PW10 stated that he does not have with him the calibration certificate for the instruments used for the DNA extraction and identification. PW10 that part of his job is to maintain the instruments, and parts of those instruments need to be changed weekly and fortnightly because they can't have the overseas technicians coming in every week or fortnight to change these instruments. PW10 stated that the instruments that are brought into the lab are already calculated by the suppliers. PW10 stated that the certification for the instruments being fit for purpose is done by the technicians when they visit and check the instruments, and they paste the certification on the instruments, and he does not have those certifications with him. PW10 confirmed that there are 4 stages involved in DNA extraction and identification, which task

was done by a person assigned such task. PW10 stated that as per their laboratory procedures, 4 different individuals are tasked to do each of the stage, and the result are not given by each analyst for each stage, but directly extracted from each instrument. PW10 confirmed that his forensic report on examination of items is dated 5 October 2020. PW10 stated that he noted on page 8 of his report the samples received – 1<sup>st</sup> column ‘Item description’, and date on which the samples were received – 3<sup>rd</sup> column of table. PW10 stated that the reason that 2 and 4 are not listed under Exhibit codes in the table on page 8 of his report is because Exhibit 2 was the buccal applicator used for Exhibit 1, and Exhibit 4 was the buccal applicator used for Exhibit 3, and these buccal applicators are applied onto a special card referred to as *buccal empty card* which are excluded when the DNA report is generated by the system. PW10 confirmed that the buccal reference FTA of Sandhya Lata and Navneel Chandra medium press-sealed bags were unsealed – See column headed Packaging. PW10 stated that although the said bags were unsealed, the reference sample that was collected was safely packaged in its own packaging. PW10 stated that if it was unsealed and the reference samples were left in the open, then they would not have processed this reference sample. PW10 confirmed that the reference sample was received by Eta Kedrayate, and October was the date that he started preparing the DNA report. PW10 stated that he can’t recall when he did the analysis, and in the report, they don’t include the actual date they started the analysis. PW10 stated that the analysis would have been done soon after receiving the exhibits, and analysis of DNA samples usually take around 1 month to 2 months because there are a lot of cases to analyse and compile the relevant reports. PW10 stated that they only get the results at the end of all of the analysis as it is a continuous process in order to go to the next stage. PW10 stated that he was not present when the buccal swabs were taken from Sandhya Lata and Navneel Chandra, and can’t recall who actually did the extraction of the DNA. PW10 stated that he cannot comment on each stage of the DNA analysis in this case, but every single person based at the forensics lab are trained on every single procedure that is carried out. PW10 could not recall which stage from 2 to 4 of the DNA analysis he was involved. PW10 stated that they have a manual case register which notes all received items like that appearing on ‘Item description’ on pages 8 and 9 of the report. PW10 stated that the manual case register will also note the document(s) that accompanied the exhibits. PW10 that the ‘Exhibit code’ in the Cases Information Summary on pages 8 to 9 of the report

note the numbers 1 to 21. PW10 stated that the person whose DNA is being extracted must be correctly informed and give an informed consent. PW10 stated that the Case Information Summary only contains the items or exhibits received, and not documents accompanying the exhibits such as the consent form. PW10 stated that as case officer, he only oversaw the procedure that was carried out on the samples for this case at the lab, and not whether consent was obtained from the person of interest. PW10 stated that he believed that the collection of the sample was done here in Labasa. PW10 stated that when the reference samples were collected, a consent form is signed together, and the person whose reference sample was collected has to give consent and there is a consent form for that. PW10 stated that when the submissions were made, it was submitted together with the consent form. PW10 stated that he can't recall as to when he actually saw the consent form. PW10 stated that he dispatched the consent form to Inspector Gasio for him to then deliver to the DPP. PW10 stated only the collection officer signs on the consent form, and the collection officer is Inspector Gasio. PW10 stated that there is a dispatch book, and all exhibits and documents that are dispatched are recorded in the dispatch book. PW10 stated that all analysis are carried out locally. PW10 stated that they have an administration officer, and when they receive a case, everything is documented in their register and there is also an electronic register. PW10 stated that there is an electronic register and a manual register, and the recording is done during the registration process when they receive a case also known as the registration stage, and rechecked by another person, and only when the records are correct according to the case, only then can the case be assigned to a case officer via the electronic procedure. PW10 stated that they did not do parallel testing due to limited resource. PW10 stated that in terms of parallel testing, overseas accredited forensic labs send them biological samples for proficiency testing, so for these samples they analyse them according to the current analysis procedures that they follow. PW10 stated that when they carry out analysis on these biological samples, the results are sent back to the forensics labs counterpart in Australia and New Zealand for verification. PW10 stated that those parallel tests are not done for every case. PW10 stated that they don't carry out parallel test, but only carry out re-runs of samples to confirm the results. PW10 stated that they do re-runs of samples 2 or 3 times to verify the initial result. PW10 stated that they don't do parallel test, and the samples were not sent overseas for verification. PW10 stated that parallel test is not mandatory but ideal.

In **re-examination** by the prosecutor, PW10 stated that there is a sole supplier of their instruments including chemicals, which supplier is a major forensic company from overseas. PW10 stated that the supplier is Thermo Fisher based in Singapore, USA, Australia and New Zealand. PW10 stated that the collection of the buccal swab is a different process from that of DNA extraction. PW10 stated that when they collect the buccal swab, they are collecting body cells from the inner cheek of a person, while DNA extraction is when they extract the actual DNA that is present on the swabs or applicator, which process is done in the lab. PW10 stated that there was no need for a parallel test or re-run in this case because their instruments are well maintained and the chemicals used are used before their expiry date, so they trust the acquired results. PW10 stated that for all the process carried out by the analyst, there is a witnessing officer present to ensure that all steps are carried out correctly, and even at the end stage when the results are obtained, there is another analyst who reviews the result.

22. Soon after the testimony of PW10, the prosecution then closed its case, and defence counsel Mr. Sen then indicated his intention of rendering a *submission of no case to answer*, which was heard on 6 March 2024 and dismissed accordingly by the Court on 5 June 2024, subsequently putting the following options to the accused whether to: i) remain silent; ii) given sworn testimony; or iii) call other independent witness, to which the defence opted for the accused to remain silent but call 2 other witnesses, namely: DW1 – Farina Fatima and DW2 – Urmila Devi.

### **Defence case via DW1 and DW2**

#### **DW 1 – Dr. Farina Bibi Fatima**

23. **DW1 Dr. Farina Bibi Fatima**, in **examination-in-chief**, testified that she is currently a general practitioner and mental health physician at Higher Medical Clinic in Nadi, and reside at ABM Court, Nadi. DW1 stated that she graduated in 2014 with the Bachelor in Medicine and Bachelor in Surgery from the Fiji School of Medicine conferred by USP, after which she practiced public health and rural medicine at Ba Mission hospital. DW1 stated that she completed her internship at CWM hospital in 2015, after which she was a medical officer in

public health and general medicine at Ba Mission hospital, and in 2017 she was recruited to be in specialty in-house training in psychiatry at St Giles hospital, and from January 2018 to February 2023 she was in charge of psychiatric and mental health service provision in the northern division based at Labasa hospital. DW1 stated that her expertise are family medicine and mental health. DW1 stated that for mental health, she was trained under supervision in St Giles hospital in 2017, after which she was deployed to the northern division and received continuous training through various online courses and in person workshops that were provided by the ministry, and being in touch with the clinic mentors at St Giles hospital. DW1 stated that she was trained by the consultants at the time namely, Dr. Allan, Dr. Balram, Dr. Chang, Dr. Nelvan Karan i.e. national advisor for mental health and who recruited her, and Dr. Kiran Gaikwad i.e. Medical Superintendent. DW1 stated that she was posted to Labasa hospital for specialty provision of mental health services for the northern division, taking care of inpatient, outpatient and public health service provision in mental health. DW1 stated that she was posted to Labasa hospital in January of 2018 as the medical officer in psychiatry for the northern division, and was acting as senior medical officer in psychiatry from January 2018 to February 2023 for the northern division. DW1 stated that she was in charge of the stress management division, looking after referred patients who were deemed by general practitioners, public medical officers or other specialty doctors within the hospital to have symptoms of psychiatric illnesses, and reviewing cases from all different age groups. DW1 stated that she was also in charge of providing inpatient psychiatric care including making treatment plans, prescribing medications and discharge plans for inpatient psychiatric clients as well as conducting outpatient clinics and outreach clinics to most health centers in the northern division for mental health clients. DW1 stated that forensic psychiatric evaluations for northern division clients were usually referred to the stress ward, and she conducted several forensic assessments during her tenure in Labasa hospital. DW1 stated that Ms. Sonal Sandhya Lata was referred to her for psychiatric assessment by her treating team at the time which was the gynaecology team while was inpatient. DW1 stated that she can recognize Sonal Sandhya Lata and she sat behind Mr. Sen wearing a pink sweater. DW1 stated that the hospital provided her this morning with Ms. Lata's medical file which includes her records as well as the gynaecology team records. Leave was then granted by the Court for DW1 to refer to the medical folder of the accused

Sonal Sandhya Lata. DW1 stated that the very first time she was referred and encountered Ms. Lata was in the Gynaecology ward in Labasa hospital on 18 June 2020 at 4.43pm. DW1 stated that her observation was that the patient presented a history of having low mood, disruptions in sleep and disorganized behaviour including auditory hallucinations and olfactory hallucinations in that she could hear voices and smell scent prior to her presentation in the hospital. DW1 stated that according to her assessment, she had a history of prolonged low mood and had been feeling depressed, and she had disturbed sleep and experiencing auditory hallucinations in that she could hear voices talking to her and sounds that only she could hear and smell scents that only she could perceive. DW1 stated that she also had a history of suicidal thoughts before admission to the hospital, and found to be significantly anaemic during her admission by the gynaecology team. DW1 stated she was significantly anaemic because her haemoglobin level was 7.3 grams per deciliter according to her admission blood notes, which is considered to be severe anaemia in the case of most clients including pregnancy clients. DW1 stated that the usual required level for normal healthy adult females is 11.5 grams per deciliter or more, 11.5 being the normal lower minimum. DW1 stated that her psychiatric assessment of Ms. Lata was that she had major depressive disorder with psychosis. DW1 stated that *psychosis* is any disturbance in a person's perception of reality and this might include unusual thoughts known as delusions clinically which can vary from people, thinking that someone is trying to hurt them, or they might have very inflated ideas about who they are, how much power they have, etc. DW1 stated that this can also present with disorganized behaviour including things like public nudity, aggravated behaviour like violent behaviour. DW1 stated that the most common feature usually is hallucinations where the patient might hear voices, see things, smell things, or even feel things on their body that are not in fact happening and that other people cannot see or feel. DW1 stated that she initially assessed Ms. Lata on 18 June 2020, after which she reviewed her several times during her admission in hospital and after being discharged, she continued to attend stress management clinics until early 2023. DW1 stated that the last time she reviewed Ms. Lata was in June 2022, and the last documented clinic at Labasa hospital was on 22 February 2023 where she was reviewed by a covering doctor. DW1 stated that commonly the patient loses interest in their day to day activities, and they might become isolative and not want to engage socially even with their close family and friends. DW1

stated that they have difficulty focusing and completing tasks, sleep disruptions, changes in appetite where they might eat too much or too little, have thoughts of harming themselves or other people, features of anxiety where they have changes in their breathing, heart rate, or feel scared for no particular reason, have features of psychosis as stated before. DW1 stated that according to the history and clinical assessment and collateral history obtained from the client's husband at the time, it appeared that these behavioural changes and hallucinations were being experienced at least a few months prior to her admission, and so DW1 concluded that she in fact developed the depression with psychosis prior to her admission. DW1 stated that according to the history, her symptoms began in 2019 after stresses with her family life for which she had received several episodes of counselling by Empower Pacific according to the accused. DW1 stated that a diagnosis of depression is usually made with symptoms prevailing for a period of 2 or more weeks and she had symptoms for a lot longer than that. DW1 stated that there are several clinical theories and research into what triggers psychiatric conditions, specifically for depression there might be a genetic factor including family history or previous patient history of depression. DW1 stated that there can be environmental factors including childhood abuse or maladjustment, domestic issues with partners, workplace stresses as well as substance use. DW1 stated that the major theories are changes in neurotransmitter levels which are chemicals in the brain that help to control and regulate our mood because of these genetic and environmental causes. DW1 stated that certain physical conditions and disorders can also trigger mental health issues and some have been linked to immune responses as well, basically our bodies own cells forming chemicals which might alter the brain chemistry. DW1 stated that Ms. Lata did not have any use of illicit substances in the 6 months prior to her presentation to the gynaecology team. DW1 stated that for a pregnant woman, depression looks fairly different in each client, some might outwardly appear quite normal because they have not discussed their symptoms or they are able to mask their symptoms. DW1 stated that for other people, it might be more overtly evident in the way they dress, they might not want to take care of themselves, and lose interest in maintaining things like hygiene. DW1 stated that there might be evidence of self-harm, or their facial responses might defer compared to normal non-disordered people. DW1 stated that she did not formally request for a psychiatric evaluation of her mental state for the alleged charge. DW1 stated that she provided the prosecution office with the report stating

Ms. Sandhya's diagnosis and ongoing treatment, which the prosecution officer had requested the Medical Superintendent for. DW1 stated that the folder of Sonal Sandhya Lata appears to be a true copy of the version that she had furnished to Sergeant 2440 Farida which she signed in ink. DW1 stated that in the second paragraph she had stated and paraphrasing that 'during her gynecological admission on 15<sup>th</sup> June 2020, she was referred for assessment by the treating team during which she had given a history of experiencing depressive and psychotic symptoms for some months preceding her admission, she was therefore assessed to have depression with features of psychosis and was commenced on an anti-depressant and anti-psychotic medication on 18 June 2020'. DW1 stated that the report was written and signed by her, and the original report given to Sergeant 2440 Farida on 5 January 2021. Defence then tendered **Dr. Farina Fatima's report dated 5 January 2021, reference number 330003853** as defence exhibit 1 [ **DE1** ]. DW1 stated that there was no request made to her to give a full detailed forensic psychiatric evaluation report in this case. DW1 stated that her testimony to the Court pertains to her assessment and treatment of the accused in the context of her illness, which was requested by the treating team at the time, and which they continued care after her discharge. DW1 stated that she was informed by the gynaecology team that the client had been admitted by them for retain product of conception. DW1 stated that during her initial assessment of Ms. Lata, they did cover the conditions of her supposed pregnancy and that she was an *unbooked* mother, that is, there had been no record of her pregnancy prior to her presentation to the hospital on 15 June 2020. DW1 then read out from the folder that *'regarding her pregnancy, she says for the first few months she did not realize she was pregnant as she was still having spotting, this is quite common in the first few months of pregnancy for women to have some degree of bleeding. She says she's not sure why she did not tell even her mother about her pregnancy and she does not know why she never came for booking, but says she isolated herself from everyone else even more after she realized she was pregnant'*. DW1 stated based on the history she provided and then read out, *'On the night in question everyone had gone to bed, she had gone to shower and then she came to bed, her husband and children were sleep in the same room she felt her water break which the amniotic sack which ruptures commonly right before delivery. After that she cannot recall exactly what happened. She says she's usually afraid of going outside in the dark and cannot recall how or why she went out into the field she does not recall being in labor, does*

*not recall whether the baby was alive or moving on birth, she does not recall the baby crying, she does not recall how she came back home. She says she feels blank when she thinks of that night and can only recall some details when people talk to her about it'.* DW1 stated that that was the recollection from her of that night. DW1 stated that her assessment was the she had had psychosis as a feature of her depressive episode many months prior to her delivery and she happened to not be able to recall most of the incidences of the alleged night, which is a possibility in postpartum states of psychosis. DW1 stated that at this point in time, they focused more on her treatment plan because eliciting detailed history of that event was difficult and caused emotional distress to the client, and would not have been beneficial in terms of treatment and that it would have possibly worsen her mental state at that time. DW1 stated that on that very day she assessed and concluded that Ms. Lata still had depression with psychosis, which is why she was started on 2 different tablets to treat both conditions. DW1 stated that according to the history provided by the patient and subsequently her husband, that there had been symptoms, prior to her presentation and delivery, of her having changes in mood and hallucinations. DW1 stated that a formal request for evaluation of her state of mind during that incident was not made; however, when she was relating the history, she was making sense, but her short term memory was affected as she could not recall the incidents of the night which is not entirely unusual in patients with psychosis, who might have some impairments in recall and cognitive ability when experiencing the psychosis, but again it is different from patient to patient. DW1 stated that a person not being able to recall events is possibly due to her history of mental health issues preceding her presentation, and traumatic events are fairly commonly blocked by a patient and they have difficulty in recalling, or if they do recall, it might not be in detail as you would expect. DW1 stated that it might be put down to her preceding mental health issues, but she did not assess her on the very night of the incident so she cannot speak to that entirely. DW1 stated that formal forensic request was not made to evaluate her mental status, and from her encounter with the patient has been centered around eliciting information which could help in her treatment plan and not necessarily to provide forensic evidence as per to her mental state at that certain time, those would have been different set of questions. DW1 stated that the memories that they could elicit at the time were limited and were in fact as stated earlier distressful for the patient and would have been counterproductive to their

treatment of her at that time. DW1 stated that part of the assessment of the patient was to determine whether she was relevant enough to be interviewed by the police at that time, and that was the only question that the forensic team had asked at that time. DW1 stated that her statement to this Court have been pertaining to more her treatment and her diagnosis rather than the forensic circumstances at the moment. DW1 stated that on the very day that she saw her first, after her initial assessment of depression and psychosis, she was stated on an anti-depression medication which is mainly fluoxetine and an anti-psychosis medication which was haloperidol, and this was supervised while she was inpatient and continued for at least the next 3 years. DW1 stated that Ms. Lata was very compliant with their treatment plan, she did attend clinic several times after her discharge, and the last time she saw her was in June 2022 and she continued to attend clinic at the hospital until February of 2023 as is the last documented review. DW1 stated that she had improved after medication even in the second medical report she was noted to be improving on the tablets in that she did not have any major features of psychosis, her mood had been improving, during which time they did try to reduce doses at one point, and because of some other familial factors she had an early relapse which is basically that her symptoms were coming back when they tried to reduce the doses and they had to go back to her usual anti-psychotic doses after they tried to reduce it. DW1 stated that when Sonal Lata was presented to the gynaecology team she was found to have haemoglobin of 7 and she was taken into operative procedures to remove products of conception, and as noted in her file, she received 2 units of B positive blood, one on the 16<sup>th</sup> of June and another on 17<sup>th</sup> of June. DW1 stated that it would certainly affect a person's strength if it was an acute loss of blood meaning if it happened over a very short period of time, it would probably make the patient dizzy. DW1 stated that in terms of symptoms of anaemia, it can cause temporary changes in behaviour and it can affect your mental state, in that large volume losses of blood can cause sudden reduced blood flow to major organs such as the brain which they call *hypoxemia*, and in certain cases, *hypoxemia* injuries such as blood loss, trauma or even certain kinds of stroke can cause changes in mental state. DW1 stated that in her assessment, prior to her presentation she has definitive symptoms of depression with psychosis, it is highly probable she was suffering from the disorder on the day of the event and that is why they started her on the medications. DW1 stated that what she meant was that the symptoms of the disorder had evolved and had been present beyond

and before the event, and it is possible that she was acutely and well on the day of the event as well. DW1 stated that she prepared 2 statements, the first one while she was admitted the very first time, and the second one was in 2021 as requested by the Investigating Officer. DW1 stated that the purpose for the first statement was for whether they could take her into custody for questioning after her discharge. DW1 stated that they also wanted to know if she had any prior presentations or medical records of any disorders before the event, and it was stated that she had not presented herself to the hospital for any recorded events prior to that admission, and the assessment was done after her admission.

In **cross-examination** by the prosecutor, DW1 stated that she examined Ms. Lata on the 18<sup>th</sup> of June, and she was initially in the care of the gynaecology team who referred her to DW1 later given her history of presentation of the alleged event and because she appeared to have mood symptoms, and that she seemed distressed so they referred her for a psychiatric assessment and possible treatment of any condition. DW1 stated that the patient was hallucinating in terms of hearing voices i.e. to have calling out to her saying '*gigi, gigi*', which is what apparently people use to call her at home, but there would no source of it, and she would also complain of hearing ringing sounds like a telephone or bell and would look around for it and wouldn't find it. DW1 stated that she would also complain of smelling perfumes or scents that other people couldn't smell, which is a form of olfactory hallucination. DW1 stated that hallucination is a prominent feature of psychosis, it is postulated that any change in neurochemical / neurotransmitter levels specifically that of dopamine. DW1 stated that dopamine is the specific neurotransmitter that usually can cause hallucinations, and other conditions such as stroke, infections, very high fevers, any condition which can lower the oxygenation or blood levels to the brain temporarily or permanently. DW1 stated that what caused her hallucinations was predominantly due to depression given her prolong history of low mood at the time. DW1 stated that severe depression can lead to psychosis and hallucinations. DW1 stated that she could not be definite or specifically draw the conclusion as to whether she was suffering from any hallucination causing her to kill a baby at the time of the event because when she questioned her about those incidences she could not recall much around that incident and she did not say whether she was hallucinating at that event. DW1 stated that *psychosis* is any disturbance in

one's reality perception, so for example, you and I are talking and everybody around us can see and hear us and that we exist and this conversation is happening; however, for patients with *psychosis*, they might hear and see things, even feel things on their body or smell things due to various conditions as described before, that are very real to them but the people around them will not be able to perceive it and that it is unreal, and it is happening due to a disturbance in their brain, and it can occur in various forms, it can just be voices, visions, tactile in that they might feel things on them, or they can smell things. Psychosis o suicidal attempts would be classified as severe forms of depression. DW1 stated that she did not specifically note in the report that suicidal attempts by the patient, but the patient had told her of thoughts of committing suicide, but never actually acted on it because every time she would think of her 2 children and stop. DW1 stated that her assessment of the patient was not a forensic assessment of her mental status at the time she committed the incident, but more to the effect of her being referred for assessment to help her being treated for her condition. DW1 stated that her assessment up to date has always been around treating her condition. DW1 stated that she could not assess the patient's state of mind at the actual time she allegedly committed this offence. DW1 stated that she could not be sure of the patient's state of mind at the time she allegedly committed the offence, but have based her assessment on the history and collateral events. DW1 stated that based on the history, he then mapped out a treatment plan for the patient. DW1 stated that the *psychosis* part was related as incidents even before the event in question, so the recall of the incidents is foggy for whatever reason, but there are collaborating histories of psychosis of low mood preceding that incident. DW1 stated that she did not discuss the paternity of the baby with the patient, and the patient did not tell her that her husband was not the father of the baby. DW1 stated that she can recall giving a report to the Criminal Investigation Department at Labasa Police Station on 18<sup>th</sup> June. Leave was then granted by the Court for DW1 to be shown that report, which she read out, *'[a]s the requested information regarding the investigation into the patient Mrs. Sonal Sandhya Lata has no previous medical record of any psychiatric disorder, nor was she on any psychiatric medication according to her medical records on file or on the hospital system'*. DW1 stated that prior to her presentation on the 15<sup>th</sup> of June, they did not have any records in file or on the hospital system, including no history of mental illness or disorders. DW1 stated that her observations and collateral history of the patient were basically things

that led to her diagnosis as well as the patient significant clinical improvement on the medications thereafter, but she did not have any interactions with the patient prior to the 18<sup>th</sup> of June, so she cannot state what the patient was like in person at the time she gave birth. DW1 stated that it is possible that the patient may have lied to her when telling DW1 of her history that she could not recall going and giving birth, that she was bleeding and could not remember what happened on that particular day. The prosecutor then tendered as prosecution exhibit 3 [ **PE5** ] the letter dated 18/06/2020 reference number 330003853 signed by Dr. F. Fatima (DW1) to the CID, Labasa Police Station. DW1 stated that she gave statement to the police, and in lines 20 to 25, *'[s]he's however, medically/mentally fit to commence with the interview as her speech is relevant/logical and she does not have auditory or visual hallucinations since her admission'*. DW1 stated that her mental assessment of the patient was based on the history told to her by the patient including her husband as to the hallucinations.

In **re-examination** by Mr. Sen, DW1 stated that there is no hard and fast ways unless she was present for her to say that the patient was lying or not, and her assessment has to be based on history that is provided by the patient and family in assessing the mental status of the patient while examining the patient. DW1 stated that WHO says that 10% of women are prone to suffer from postpartum depression, out of which 5% can suffer from *psychosis*. DW1 opined that given her preceding history and physical condition of being severely anaemic, it is possible that she might not have been completely well during the event in question. DW1 stated that most patient with psychosis specifically with depression can have a prolonged period of lucidity with specific spells of psychosis so there are very few very unwell patients who might be psychotic 24/7, but most of them actually even with very severe disease have lucid spells. DW1 opined that if she was having a psychotic break in the moment during the event, it is possible she might not have been fully aware of the impact of her actions because psychosis can cause temporary impairments in cognition. DW1 opined that during a psychotic break, patients can become very impulsive and enter a manic state where they will have reduced control over their actions, where they can become agitated, violent and even homicidal, and so in that instant, there is a possibility they might not be able to control their actions. DW1 opined that if the patient was in psychotic state during that

event, she might not have had the capacity to control her actions or know what she was in fact doing, there is a possibility both ways.

### **DW 2 – Urmila Devi**

24. **DW2 Urmila Devi**, in **examination-in-chief**, testified that she is 55 years old, married with 2 daughters, domestic duties and reside at Bulileka, Labasa. DW2 stated that she knows Sonal Sandhya being her neighbour and daughter-in-law. DW2 stated that Sonal Sandhya is married with 2 children. DW2 stated that her house is on the hilltop while Sonal Sandhya's house is down on the slope about 20 meters apart. DW2 stated that Sandhya's husband Navin works in a bank and their children go to school. DW2 stated that in late 2019 and early 2020 she saw Sandhya and she use to walk around in her compound. DW2 stated that Sandhya use to go to her farm during daylight and walk along the road. DW2 stated that she and her husband went to Sandhya house sometime in 2020 and later found out from the police as to why they had gone there. DW2 stated that Sandhya use to go around the rice field and shout and cry at night. DW1 stated that whenever she hung clothes, she could hear Sandhya speaking to herself and she could see that from her house. DW2 stated that at night when she use to go near the fence, she could hear her crying and shouting at her place. DW2 stated that only use to see her but not talk to her because she distanced herself. DW2 stated that Sandhya went to the rice farm to harvest or plant rice. DW2 stated that in 2000 Sandhya was behaving normal and then later changes appeared on her. DW2 stated that when she went with her husband on the day of the incident, she saw Jotishna but did not talk to her. DW2 stated that she use to hear sounds from Sandhya's house for almost a year.

In **cross-examination** by the prosecutor, DW2 stated Ms. Lata use to talk to herself, shout and sometimes cry. DW2 stated that the sounds she heard was not from the argument between Ms. Lata and her husband. DW2 stated that she could only hear Sandhya talking to herself and crying, but could not specifically make out what she was saying from a distance of about 30 to 40 meters. DW2 stated that she can recall giving a statement to the police on 16 June 2020. DW2 stated that she gave her statement to the police on the evidence of the same day and she was never asked of anything before that day. DW2 stated that she did not note in her statement that Ms. Lata made noises in 2019. DW2 stated that she is not lying to

the Court and she has seen a lot of changes in Sandhya. DW2 stated that she did not note in her statement that Sandhya walks alone on the farm and had distanced herself, because the police never asked her about previous days and she only gave her statement of what happened on that day. DW2 stated that she did not tell her husband about Sandhya's strange behaviour of walking alone and mumbling to herself. DW2 stated that she did not go into Sandhya's house to find out whether she was actually alone inside the house. The prosecutor then tendered Urmila Devi's (DW2) statement to the police dated 16 June 2020 as prosecution exhibit 6 [ **PE6** ].

In **re-examination** by Mr. Sen, DW2 stated that the police wrote her statement. DW2 stated that she saw with her own eyes and not lying about Sandhya walking alone and talking to herself, and that she was only asked questions on what happened on that day, but never asked about what happened on previous days.

25. After DW2's testimony, the defence then closed its case. Both counsels then made closing submissions, and this is the Court's judgment.

### **Analysis of the evidence by the prosecution and defence**

#### **Elements for Murder**

26. The prosecution must prove *beyond reasonable doubt* the following elements of *Murder* under section 237(a)-(c) of the Crimes Act 2009:

[1] A person i.e. the accused Sonal Sandhya Lata;

[2] Engages in conduct;

[3] Her conduct causes the death of her new born baby (s. 246); and

[4] She intended to cause, or is reckless as to causing, the death of her new born baby by her conduct.

#### **Partial defences to Murder**

27. In this instant, the partial defences to *Murder* are (i) *Diminished responsibility* [ s.243 ]; and (ii) *Infanticide* [ s.244 ], which state:

243.-(1) *When a person who unlawfully kills another under circumstances which, but for the provisions of this section, would constitute murder, is at the time of doing the act or making the omission which causes death in such a state of abnormality of mind (whether arising from a condition of arrested or retarded development of mind or inherent causes or induced by disease or injury) as substantially to impair-*

- (a) the person's capacity to understand what the person is doing; or*
- (b) the person's capacity to control the person's actions; or*
- (c) the person's capacity to know that the person ought not to do the act or make the omission-*

*the person is guilty of manslaughter only.*

*(2) On a charge of murder, it shall be for the defence to prove that the person charged is by virtue of this section liable to be convicted of manslaughter only.*

244.-(1) *A woman commits the indictable offence of infanticide if-*

- (a) she, by any wilful act or omission, causes the death of her child; and*
- (b) the child is under the age of 12 months; and*
- (c) at the time of the act or omission the balance of her mind was disturbed by reason of-*
  - (i) her not having fully recovered from the effect of giving birth to the child; or*
  - (ii) the effect of lactation consequent upon the birth to the child; or*
  - (iii) any other matter, condition, state of mind or experience associated with her pregnancy, delivery or post-natal state that is proved to the satisfaction of the court.*

*(2) The onus of proving the existence of any matter referred to in sub-section (1)(c) lies on the accused person and the standard of proof of such matters shall be on the balance of probabilities.*

*(3) In circumstances provided for in sub-section (1), notwithstanding that they were such that but for the provisions of this section the offence would have amounted to murder, the woman shall be guilty of infanticide, and may be dealt with and punished as if she had been guilty of manslaughter of the child.*

28. Having carefully considered the entire evidence adduced by the prosecution and defence, I find as follows:

1) **The Accused**

The evidence of Jotishna Pundit (PW5), the DNA report dated 5/10/2020 [ **PE4** ] compiled and tendered by Nacanieli Gusu (PW10), and Dr. Penaia Dimuri's (PW9) medical examination form and report of Sonal Sandhya Lata dated 15/06/2020 [ **PE3** ] prove that the accused Sonal Sandhya Lata is the biological mother of the deceased baby.

2) **Engages in conduct that killed the baby**

The Autopsy report dated 18/06/2020 tendered by Dr. Daniella John (PW8) considered together with the testimonies of Jotishna Pundit (PW5), Nacanieli Gusu (PW10), Dr. Penaia Dimuri (PW9), IP. Gasio Rokodulu (PW7), Dr. Mereoni Voce (PW4), Dr. Kaloanau Saukilagi (PW3), Navil Chandra (PW2) and Rajesh Chandra (PW1) prove that the accused Sonal Sandhya Lata's conduct of cutting the baby's neck instead of the umbilical cord which was around the baby's neck after giving birth to the baby, was the substantial and operational cause of death (i.e. legal causation), and *but for* her conduct, the baby would have remained alive (i.e. '*but for*' test or factual causation). Refer also to section 246 of the Crimes Act 2009.

3) **The Accused Sonal Sandhya Lata intended to cause, or is reckless as to causing the death of her new born baby by her conduct**

The evidence of PW1, PW2, PW3, PW4, PW5, PW7, PW8, PW9, PW10 including prosecution exhibits 1, 1A, 2, 3, 4 and 5, prove that the accused Sonal Sandhya Lata intended to cause, and was reckless as to causing, the death of new born baby by her conduct.

4) **Diminished responsibility – s.243 Crimes Act 2009**

When cross-examined by the prosecutor, Dr. Farina Fatima (DW1) stated that she could not be sure of Sonal Sandhya Lata's state of mind at the actual moment she gave birth and killed her baby, given that her assessment was not a forensic one, but one based on the history and collateral events gathered while examining the patient at the hospital, which assessment is done mainly for purposes of treating her mental condition. On that basis and also considering the testimony of Urmila Devi (DW2), the defence has therefore not satisfied this Court on the *balance of probabilities* that Sonal Sandhya Lata was indeed laboring under *diminished responsibility* [ s.243 ]when she gave birth and killed her new born baby.

5) **Infanticide – s.244 Crimes Act 2009**

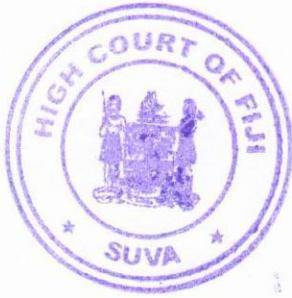
Based on the same rationale as in 4) above and pursuant to section 244 of the Crimes Act 2009, the defence has also failed to prove on the *balance of probabilities* that Sonal

Sandhya Lata had committed *Infanticide* rather than *Murder*.

- 6) The testimonies of PW1, PW2, PW3, PW4, PW5, PW7, PW8, PW9 and PW10 including the corresponding prosecution exhibits are credible and reliable, and were neither heavily discredited nor unsettled during cross-examination by defence, hence I attach immense weight to their evidence, and concurrently reject the testimonies of DW1 and DW2, having not being able to prove on the *balance of probabilities* that the accused Sonal Sandhya Lata was laboring under *diminished responsibility* [ s.243 ], or had committed *Infanticide* [s.244], when giving birth and killing her new born baby.
- 7) The testimony of Narendra Chand (PW6) has no probative value in relation to the indictment, hence I attach no weight to his account.

### **Conclusion**

29. Based on the reasons highlighted above, I find that the prosecution has proved *beyond reasonable doubt* that the accused Sonal Sandhya Lata gave birth to a baby, and her conduct was the substantial and operational cause of death, having intended to cause, or was reckless as to causing, the death of her new born baby.
30. The defence has not satisfied this Court on the *balance of probabilities* that the accused Sonal Sandhya Lata was laboring under *diminished responsibility* [ s.243 ], or had committed *Infanticide* [ s.244 ], when giving birth and murdering her new born baby.
31. Sonal Sandhya Lata is therefore **guilty** of *Murder* in the Information by the Director of Public Prosecutions, and **convicted** accordingly.
32. Sonal Sandhya Lata is hereby remanded in custody to await sentencing.
33. Thirty (30) days to appeal to the Fiji Court of Appeal.



*Pita Bulamainavalu*

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**Hon. Mr. Justice Pita Bulamainavalu**  
**PUISNE JUDGE**

**At Suva**

2 April 2025

**Solicitors**

Office of the Director of Public Prosecutions for the State.

Sen Lawyers for the Accused