

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. HAC 103 of 2022

STATE

-v-

SAULA MANAWI

Counsel: Mr. T. Tuenuku for the State
Mr. I. Rusaqoli for the Accused

Date of Trial: 28 – 29 August 2025

Date of Judgment: 11 November 2025

JUDGMENT

(The complainant has been granted name suppression. I refer to her as “the complainant” in this Judgment.)

Procedural background

1. Mr. Saula Manawi (“the accused”) was produced in custody before the learned Resident Magistrate at Labasa on 20 September 2022 charged with a single charge of raping the complainant. The matter was transferred to this Court, and the accused was remanded in custody.
2. By an Information dated 19 October 2022, filed on 21 October 2022, the accused was charged with three counts of sexual offending against the complainant during the period 1 January 2021 to 31 December 2021: Indecent Assault, contrary to section 212(1) of the Crimes Act 2009, the particulars being that he hugged the

complainant (count one); Rape, contrary to section 207(1) and 2(a) and (3) of the Crimes Act 2009, the particulars being that he had carnal knowledge of the complainant, a child under the age of 13 years, on the same occasion as count one (count two); Rape, contrary to section 207(1) and 2(c) and (3) of the Crimes Act 2009, the particulars being that he penetrated the complainant's mouth with his penis, a child under the age of 13 years, on the same occasion as count one and count two (count three).

3. On 7 December 2023, upon his plea of guilty to count one, the accused was convicted and sentenced to 6 months' imprisonment suspended for 3 years.
4. After a number of adjournments, the trial was fixed for 11 to 12 September 2024. Those dates were vacated by the judge in carriage of the matter when he was assigned to the Western Division.
5. The matter came before me for PTC on 23 January 2025, and the trial was fixed for 28 to 29 August 2025, during the school vacation. The accused was reminded of his bail conditions.
6. The accused failed to attend the first day of his trial and a bench warrant was issued. Mr. Rusaqoli informed the Court that he had met with the accused on 22 July 2025, and his client was well aware of his trial dates. Mr. Rusaqoli also informed me that he had full instructions to conduct the accused's defence. Being mindful that the alleged offending took place in 2021, the convenience of the complainant and her mother, who were present at Court, the further lengthy delay should the trial be vacated, and my assessment that the accused would not be prejudiced if the trial were to proceed in his absence, I ordered that the trial would commence in the absence of the accused.
7. The accused was apprehended and produced in Court on 29 August 2025.

The prosecution case in outline

8. The prosecution case is that the accused raped the complainant both anally and orally on a date in 2021, when the complainant was 11 years old. To prove its case the prosecution called the complainant and her mother.

The key issue

9. By the conclusion of the trial, the issues for my determination had crystallised. In giving evidence in his own defence, the accused accepted that he had gone to the complainant's family home after dinner to borrow her father's spear gun, and he had hugged the complainant there. He denied penetrating her anus and her mouth with his penis. Given that the complainant was 11-years-old at that time, the only issues for my determination are whether I am sure that the accused penetrated her anus and her mouth with his penis.

Evidence

10. At trial, the complainant was 15 years of age. She gave sworn testimony that she has lived with her parents in Navakura Village since birth. She knows the accused as a cousin brother.
11. In 2021, her parents left her and her siblings in the care of the accused's mother when they went to uproot yaqona in the forest. The bell rang for devotion at around 6pm, after which they had dinner together with the accused and his family. After dinner, the accused's mum told her to go and get a pot from her home for her father's food. She took a torch as it was dark. As she put the torch on the kitchen sink, she felt someone hold her shoulders from behind. She turned and saw the accused. He said to her that if she told anyone about what he was about to do to her he would slap her. She was scared when he said that. He told her to take off her clothes and she said that she did not want to. He bent her over and removed her pants and panty. He took off his pants and underwear and put his penis into her anus. She felt pain and told him not to do it, but he continued for a while. He then made her lie on the kitchen floor and wanted to put his penis in her vagina. He then made her kneel, and he put his penis in her mouth. She did not know why he did that to her. He then told her to get up, get dressed, and to take the pot to his mother.
12. The complainant did not tell the accused's mother what he had done to her as she was scared that the accused would come and slap her. It took her some time to

tell her mum what the accused had done to her because she was scared to tell her, but she did eventually tell her because she wanted him to stop what he was doing. She told her mum exactly what she said in evidence. She was taken to the hospital for examination in 2022.

13. In cross-examination the complainant confirmed that the accused had done those things to her in 2021. When it was suggested to her that the accused had never put his penis in her anus and had never put his penis in her mouth, the complainant said that he put it.
14. The complainant confirmed that she had told the police what happened. She also agreed that she had told the police that the accused's brother, Luke, had taken her to the bushes and inserted his penis into her anus. This happened in August 2022. The complainant also agreed that her mother had come to her school on 30 August 2022. The teacher called her mother because of rumours about what Luke did to her. She agreed that her mum had asked her three times about the rumours, and she told her mum that it didn't happen. When her parent's spoke to her after school, she told them what the accused did to her. That was the first time that she had told her mum about what the accused did to her. She had told a school mate about what Luke did to her on the same day it happened.
15. In re-examination, the complainant explained that she was scared to tell her mum what the accused had done to her because she knew that her mum would probably be angry with her and she would probably get a smack. She did not tell her teachers because they would probably call her mum.
16. The complainant's mother (CM) testified that the complainant is the eldest of her three children. She always accompanies her husband to their yaqona farm as he is elderly. It takes her about two hours to reach the farm on foot. When the children are not at school, she usually asks her husband's sisters to take care of them.
17. The accused's mum, Miriama, is her cousin sister. CM left her children with Miriama for the first time during the school vacation around January 2022 as her husband's sisters were unavailable. She and her husband left for the farm at around 9am

and returned home after 6pm. She went to collect her children from Miriama's house.

18. On the morning of 30 August 2022, she was preparing her children for school when her second eldest daughter asked her whether she had heard the rumours about the complainant and Luke. She asked the complainant three times whether the rumours were true, and the complainant said they were not true. After lunch, a teacher, Mr. Jess, asked her to go to school to discuss something regarding the complainant. When she got to school, she asked Mr. Jess whether the complainant had been fighting. A female teacher, Ms. Kalesi, told her that there was a rumour about the complainant and Luke. CM told Ms. Kalesi that she would discuss the matter at home with the complainant's father. Mr. Jess told her that if she did not report the matter the school would.
19. When CM got home, she made her husband sit down and, before telling him about the rumour, she told him that she wanted him to forgive the complainant as it was not her fault. She said this because she was concerned he would probably be angry and smack the complainant. When her husband asked the complainant about the rumour, she did not mention about Luke, but said that the accused had taken her to the bathroom and tried to put his penis in her vagina. He had then put his penis in her anus. She did not say when this had happened. When the complainant told them this, her husband was not angry with her, but he was angry with the accused.
20. CM said that she had noticed a change in the complainant's behaviour before she was called into school in August 2022. She had previously listened to her parents, but started to fight a lot and talk back to them. That is why she asked Mr. Jess whether she had been fighting when she went into school on 30 August 2022.
21. In cross-examination, CM agreed that the accused respected the complainant as they were cousins. She confirmed that she had first left her children with Miriama in January 2022. She also confirmed that she had asked her daughter about the rumours three times on the morning of 30 August 2022, and the complainant had denied them. The first time that the complainant told her about the incident with

the accused was after school on 30 August 2022. She reported the matter to the police the very next day.

22. In re-examination, CM explained that she did not initially believe that the accused had abused the complainant because they were cousins.
23. At the close of the prosecution case, I allowed an application to amend the Information. The original count one was deleted, and the particulars of count two and count three (which became count one and count two in the Amended Information dated 29 August 2025) were amended to plead that the rapes happened on the same occasion on a date between 1 January 2021 and 31 December 2022.
24. The defence did not make a half-time submission. Plainly, there was a case to answer.

The defence case

25. The accused elected to give evidence in his case.
26. He testified that he is a 24-year-old farmer residing with his family in Navakuru. He is the eldest of five siblings. The complainant is his cousin.
27. Sometime in 2021, the complainant and her cousins came to his house when their parents went to the farm. At around 6pm, they had devotion followed by dinner. After dinner, he went to get the spear gun from the complainant's house. The complainant and her sister were there. They had been sent by his mother to get the pot for their father's food. He hugged the complainant from behind and then let her go. He did not remove her clothes and did not insert his penis in her anus or try to insert his penis in her vagina. He did not put his penis in her mouth. His relationship with the complainant and her family was still good after he hugged her that night. When asked why the complainant would tell lies about what he did to her, the accused said that she was *"a bit slow ... sometimes she's okay and sometimes mentally she's not okay"*.

28. In cross-examination, the accused said that there were a lot of people living in his house. He heard his mother tell the complainant to bring her father's pot. Before devotion, he decided to go fishing after dinner. He saw the complainant taking the lead with a torch. When he got to the complainant's house, he called her name and she opened the door. She went to get the spear gun from the kitchen. He followed her and hugged her from behind. When it was suggested that he followed her inside because he wanted to do something to her, the accused denied that. He also denied bending her over and putting his penis in her anus and then putting his penis in her mouth.

Closing submissions

29. The parties have made helpful oral and written submissions for which the Court is grateful.
30. The prosecution submit that identity and consent are not in issue in this case. Also, there is no reason not to believe the complainant. Her answers were straightforward and made sense in the context of the case. Her evidence withstood cross-examination. There was no evidence that the complainant was slow of mind or suffered any mental illness leading her to make up false allegations. On his own case, the accused had the opportunity to rape her. The complainant's reasons for not reporting the accused's offending sooner are entirely reasonable. She is a credible and reliable witness.
31. Mr. Rusaqoli submits that there is a significant discrepancy between the prosecution witnesses as to when the alleged incident happened. He cited cases on delayed reporting and submits that the accused was not said to have made a serious threat to the complainant. There is no reasonable explanation for delayed reporting, and this undermines her credibility.

Analysis

32. The prosecution must prove that the accused is guilty. The accused does not have to prove anything to me. The defence does not have to prove that the accused is innocent. The prosecution will only succeed in proving that the accused is guilty if

I have been made sure of his guilt. If, after considering all of the evidence, I am not sure that the accused is guilty, my verdict must be not guilty.

33. This is a pure oath against oath case. The twist is that the accused pleaded guilty before trial to indecently assaulting the complainant on the same occasion he is alleged to have twice raped her. Essentially, what it boils down to is whether I am sure that the complainant is a truthful and reliable witness whose evidence makes me sure that the accused is guilty as charged. Also, I must be sure that the accused's denials are untrue.
34. It follows that the prosecution case relies solely on my assessment of the complainant's reliability and credibility.
35. Since the accused elected to give evidence in his own defence, I remind myself that even if I reject his evidence the prosecution must still prove its case to the criminal standard.
36. I also remind myself that there is no burden on the defence to prove that the complainant had a motive to lie.
37. It would be wrong, however, for me to conclude that the complainant told the truth because there is no apparent reason for her to lie. There might be a reason for her to be untruthful that nobody knows about.
38. As I understand the defence stance, it is not suggested that the complainant had a motive to lie. Rather, her evidence should not be accepted because she has some type of (unspecified) mental impairment.

Recent complaint

39. In cases of rape and other sexual offences, evidence that the complainant made a complaint is admissible to show that her conduct in complaining was consistent with her evidence in the witness box. In order to be admissible, the complaint must have been made at the first reasonable opportunity. It is a matter for the court to determine whether the complaint was made as speedily as could reasonably be expected.

40. The fact that there was opportunity to make the complaint to others before it was made to the witness to whom it was made does not make it inadmissible.
41. In the present case, the complainant had not complained to anyone about the accused sexually abusing her until she told her parents after school on 30 August 2022.
42. The complainant testified that she was scared to tell the accused's mother immediately after the rapes because the accused had threatened to slap her. She was afraid to tell her own parents, and did not tell anyone at school because she was afraid that word would get back to her parents. I find these explanations to be entirely reasonable in all the circumstances of this case. The fact that she did not complain to anyone before 30 August 2022 – several months after the alleged offending - does not undermine her credibility.
43. On the other hand, I do not consider that what she told her parents on 30 August 2022 materially assists me in my assessment of the complainant's credit.

Determination

44. The complainant was around 11 years of age at the time of the alleged offending, and fifteen-years-old when she gave evidence at trial. Her description of what the accused did to her was unembellished and plausible.
45. I say plausible because I am sure that the accused had the opportunity to penetrate the complainant's anus and mouth in the manner she described. Indeed, it was the defence case that he did, in fact, indecently assault her on the occasion she says that he twice raped her.
46. I am sure that the complainant told the truth about the accused bending her over and penetrating her anus. It was painful for her. That is not something she could be mistaken about. I am also sure that she told the truth about the accused putting his penis in her mouth.

47. It is not my impression that the complainant has any sort of mental impairment or learning difficulty capable of undermining the reliability of her testimony. On the contrary, I found her testimony to be clear and coherent.
48. I find the accused's testimony about having hugged her from behind on the occasion he is alleged to have raped her to be nothing more than an ill-conceived and contrived attempt to minimise his reprehensible behaviour. I reject his denials of raping the complainant.
49. There is conflicting evidence about when the accused indecently assaulted/raped the complainant. They testified that it happened in 2021, whereas CM's recollection is that she left her children at the accused's house in January 2022. It is hardly surprising that recollections differ after such a long lapse of time. In any event, the date of the offending is immaterial in all the circumstances of this case.
50. Considering the totality of the evidence, I am sure that the accused penetrated the complainant's anus with his penis and penetrated her mouth with his penis on the same occasion in the period 2021 to 2022. Accepting CM's evidence, this most likely happened in January 2022.
51. It follows from what I have said above that I am sure that the accused is guilty as charged, and I convict him accordingly.
52. 30 days to appeal to the Court of Appeal.



A handwritten signature in black ink, consisting of stylized initials and a long horizontal line extending to the right.

Hon. Mr. Justice Burney

At Labasa

11 November 2025

Solicitors

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