

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. HAC 99 of 2024

STATE

-v-

JIMI RIDO

**Counsel: Mr T Tuenuku together with Mr N Kumar for the State
Mr D Kumar for the Accused**

Dates of Trial: 6 – 9 October 2025

Date of Judgment: 15 January 2026

JUDGMENT

(As the complainant is a child, I shall refer to her as “V” in this Judgment in order to protect her identity)

1. Mr Jimi Rido (“the accused”) is charged with three counts: (i) Sexual Assault, contrary to section 210 (1) (b) of the Crimes Act 2009, the particulars being that, between 1 May 2024 to 31 May 2024, at Labasa in the Northern Division, he unlawfully and indecently assaulted V by touching her vulva (count 1); (ii) Rape, contrary to section 207 (1) and (2)(b) of the Crimes Act 2009, the particulars being that, on 2 June 2024, at Labasa in the Northern Division, he penetrated the complainant’s vagina with his finger without her consent (count 2); (iii) Indecent Assault, contrary to section 212 (1) of the Crimes Act 2009, the particulars being that, on 6 June 2024, at Labasa in the Northern Division, unlawfully and indecently assaulted V by touching her thighs (count 3).

The prosecution case in outline

2. In December 2023, together with her parents and siblings, V went to live with her maternal grandmother and her husband, the accused, in a one-bedroom house in Cawaira (“the family home”). Earlier that year, the accused had taken an inappropriate sexual interest in V when she and her family lived together with V’s aunty’s family in Soaso. During the month of May 2024, V was off school with a swollen leg. The accused took advantage of being home alone with V to sexually assault her by touching her vulva as she lay in bed in the sitting room. V complained to her mother who, in turn, informed her own mother about the accused’s offending. On 2 June 2024, V returned to the family home from a neighbour’s birthday party to collect ice cream. The accused was home alone and took advantage of the opportunity to digitally rape V. Again, V complained to her mother, and there were family discussions. Despite those discussions, on 6 June 2024, the accused yet again indecently assaulted V by touching her thighs. This caused a family rift and the family home was partitioned so that they were effectively living separate lives under the same roof. Eventually, a report was made to the police. The accused was excluded from the family home as a condition of bail. V and her family returned to their home in Nadi.
3. At the time of the alleged offending, the accused was 76 years of age and V was 14 years old.

The defence case in outline

4. The allegations against the accused are fabricated, borne of a wish to exclude him from the family home. He did not rape or sexually abuse V. He was at his farm in Savusavu at the time of the alleged offending on 2 June 2024.

Prosecution evidence

5. V, who was 15 years of age at trial, testified that the accused is her step grandfather. When her family first moved to Labasa from Nadi, they lived with her aunty Letila’s family at their house in Soaso. Shortly after moving into aunt Letila’s house, she asked her mum whether the accused was related to her, and

her mother explained that he was her step grandfather. During that time, he would signal to her as she lay in the sitting room, telling her to come to his room. She told her mum about this, and her mum told the accused not to do that.

6. V's family moved into the accused's house in Cawaira. She slept with her parents and two younger siblings in the sitting room, and the accused and her grandmother slept in the bedroom. In May 2024, she stayed home from school because her leg was swollen. The accused had caused her leg to be swollen through witchcraft. As she lay down in the sitting room after taking Panadol, the accused would come and start touching her private parts. He would touch her thighs and then poke her vagina "hard". He did this around midday when her parents were at work and her siblings were at school. Also, her grandmother was not at home. When she opened her eyes and tried to move, he would tell her to keep still and hold her hard. He would tell her to keep quiet. He would remove her blanket, touch inside her panty and poke her hard in her vagina. He would close her mouth with one hand and use the other hand to touch her. It was very painful when he put his hand inside her vagina. He would touch her for a long time. He stopped when her friend, Unaisi, came to the house. He told her to stop calling children into the house as he only wanted the two of them in the house.
7. When she was asked about where she was staying in June 2024, V answered that she was staying with her parents and siblings at a rented house in Soasoa. The accused was staying in Cawaira at that time. When the date was tagged to a birthday party, V recalled that she attended a birthday party at her aunt Seniana's house together with her parents, siblings and her grandmother. Her aunt Paulini sent her to her grandfather's house to get a container. When she took the container, the accused pulled her dress and touched her vagina. She slapped his hand away and took the container to her aunty. When she returned to her grandfather's house to get ice cream, he took her to his room, pushed her down beside his bed and forcefully removed her panty. When she told him that she would go and tell someone, he threatened to kill her. He put his hand in her vagina for "Probably 1 hour". She did not agree to that. He forced her. He told her to hold his penis. She managed to stand up but he pushed her down again and put his

hand into her vagina. When she tried to stand, he opened her thighs and tried to keep poking her. She heard Monty shouting that her mother was calling for her to hurry up with the ice cream. When her grandfather went to look outside, she was able to leave, taking the ice cream with her. The accused told her not to tell anyone what he did to her.

8. She returned to the birthday party and told her mother what the accused did to her. Her mum told her not to tell her dad because her dad would kill him. Her mum informed her grandmother, who said that they would talk after the party. Straight after the birthday party, they went home. When her mum confronted the accused, he replied that the devil was with him. Her father said that he would report the matter, but her mum said for him not to report it.
9. Even after her mum had spoken to her grandfather, he touched her in a bad way. The very next day, he took her to his room and touched her thigh. She was still staying with her family at Cawaira at that time. She could not recall when they had moved from Soasoa to Cawaira.
10. When cross-examined about whether the first incident of sexual abuse happened in Cawaira, V replied that it happened in Soasoa. There was no bed in the sitting room in the Soasoa house. In Cawaira, there was a bed in the sitting room. When the accused pushed her down, she tried to push him and she scratched him because she did not like him touching her that way. When asked why they had started cooking separately in Cawaira, V explained that her grandmother did not like what she heard about the accused doing to her so the door was closed. Her grandmother cooked on one side and V's family cooked on the other side.
11. In Soasoa, the accused always used to signal to her from the passage. When asked about whether she had told the police about the Soasoa incident, V replied that she had.
12. When she returned to the family home to get ice cream, the accused pulled her into his bedroom. She tried to resist but he pulled her hard. V demonstrated how the accused had covered her mouth with his hand. When she returned to the party, she told her mum that the accused had taken her to the room and touched her

vagina. In answer to a suggestion that she must have been bleeding if the accused put his finger in her vagina for more than one hour, V said that she was not bleeding.

13. Since the picture had become confused as to whether the offending charged in the Information occurred in Soasoa or Cawaira, or both places, the Court sought to clarify where the alleged offending happened when V had a swollen leg. V confirmed that it happened in Cawaira. The incident when she went home to get ice cream also took place in Cawaira.
14. When questioned about who told her that the accused had done witchcraft, V explained that she went to be prayed over at the Miracle Church and the pastor told her. He told her that one old man was with her in that house who was doing witchcraft on her leg. She believed the pastor, and that is when her swollen leg got cured there and then. She could walk properly in church.
15. She informed her parents about the accused putting his finger in her vagina when she had a swollen leg. Her dad always wanted to do something to the accused, and it was her mum who was stopping him.
16. When it was put to V that she was making up stories about the accused putting his finger in her vagina when she had a swollen leg, she replied that this thing really happened. When it was further suggested that people framed the accused to take over his house, V insisted that he really did it to her.
17. In re-examination, V said that she was staying in Cawaira with her parents and grandparents when her leg was swollen. At the time of the birthday party, she was living in the same house in Cawaira. Her grandmother chased them out of that house because she did not like that they had reported the matter to the police. Prior to chasing them away, her grandmother had partitioned the house so that they could not talk to each other.
18. V's mother ("VM") gave evidence clarifying the timeline of her family's living arrangements during the relevant period. She has lived in her family house in Navoci village, Nadi with her husband and children for 18 years. They came to live in Labasa in May 2022 and returned to Nadi in December 2024. When they

first came to Labasa, they lived at her younger sister's house at Soasoa, together with her sister's husband and three children and her mother and stepfather. When her husband managed to find a job, they moved into a rented house in Soasoa. In December 2023, her mother invited her to live at her sister's house in Cawaira, together with her mother and stepfather. Her parents slept in the only bedroom and she slept in the sitting room with her husband and three children. Her mother chased her away from that house in December 2024 after she reported to police what the accused had done to V.

19. VM recalled that during May 2023, when they were living in her sister's house at Soasoa, V had asked her whether the accused was her real father, and she had explained to V that he was her stepfather. V told her that the accused had been waiving to her from the passage. She told V to stay away from him. Later, V told her that the accused continued to do that to her. She told V not to worry as they were about to move to their own place.
20. When they moved in with her parents in Cawaira, the accused started touching V as they slept in the sitting room. She saw the accused touching V in the night. When VM went to tell her mum, the accused said that he had never done anything. VM told her younger sister that the accused had been touching V. She didn't go to the police because her mum said that she was lying.
21. There was a time when V's leg was swollen in June 2024. She took V to the hospital where she had a scan and x-ray, but nothing was found. She then took V to the pastor to be prayed over.
22. She returned from the fish market one afternoon and found V was lying down and crying. After asking her three times what was wrong, V told her that "Pa" came and was touching her hard on the bed. All his hand was in her panty. When V said "Pa", she was referring to the accused. She called her mother and her sister and they discussed reporting the matter to the police.
23. The matter was not reported because the accused had knelt down and sought forgiveness. He did this in front of her mother and all her family at the house in Cawaira. This was on the same afternoon that V had told her about what the

accused did to her. After initially denying the allegation, the accused accepted that he had done it and said that one devil is with him. VM warned him not to do it again or the matter would be reported to the police. She did finally report the matter because she saw his behaviour towards V continuing.

24. VM recalled a birthday party in June 2024. She attended together with her children and her mother. Her stepfather stayed at home. She sent V to get ice cream from the fridge at home. V returned with the ice cream after about half an hour. When she asked what happened, V told her that the accused took her to the room and wanted to touch her. VM told V that they would go home after the party and see what to do about it. When it was discussed with her mother and stepfather, they said that it was not true. V told her that the accused had pulled her into the room and touched her hard as he always did. She called her sister who said that the accused could no longer be forgiven. After a couple of days, she called the police after the accused was throwing stones at the window and telling V he wanted her. The police told her that if the accused did it again she should go to the Namara Police Station. She went to the police station to report the matter because her husband told her that the accused would be doing things right in front of her as she had forgiven him many times. They continued to live in her sister's house in Cawaira because her sister told her to stay and it was the accused who needed to go.
25. When it was suggested to VM in cross-examination that there had been no birthday party, she said that there was a birthday party. When it was suggested to her that the allegations against the accused are false, she answered that they are true. They did not wish to remove the accused from the house. They did not care about the house because they have their own house. It was her sister who told them to stay in the house. VM confirmed that the accused used to spend time at his farm in Savusavu.

Defence Evidence

26. The accused elected to give evidence in his case.

27. He testified that he rented a house from his wife's daughter in Cawaira. He lived there with his wife and a grandson. VM and her family came to live together with them. He and his wife and grandson slept in the bedroom and VM and her husband and children slept in the sitting room. He would travel between his farm in Savusavu and home in Cawaira. In Cawaira, he would help his wife at the fish market. On one occasion, he returned from his farm and heard from his wife that there had been a birthday party whilst he was at the farm. When defence counsel read the three counts to him, the accused said that they were not true. When asked why the false allegations were made, the accused said that he heard that they were trying to get him removed from the house so that they could stay there. He has never apologised to VM and her family and he does not practice witchcraft.
28. In cross-examination, the accused confirmed that V had a swollen leg at the house in Cawaira which caused her to miss school. At that time, VM would assist her sister, Letila, at the fish market. Letila owned the Cawaira house and also owned a house in Soasoa. He rented the Cawaira house from Letila for \$50.00 per month, which was later increased to \$100.00 per month. There was a time when he returned from his farm and was informed by VM that she had fought with his wife, and the door had been closed to partition the house. His wife informed him that VM's husband had closed the door. The accused said that he did not know the details of the argument and denied that the cause of the argument was his abuse of V. When he pressed his wife on the reason for the partition, she told him that there was an allegation that they had been practicing witchcraft in their room. Before the allegations against him were made, he had enjoyed a very good relationship with VM. He began his relationship with his wife after their respective spouses had passed away. He denied that he was in the house in Cawaira at the time of the birthday party in 2024. It is not true that he digitally raped V when she came to collect ice cream. VM never told him directly that she wanted him out of the house, but that is what he later heard.

Closing submissions

29. Both parties have made helpful written and oral submissions for which the Court is grateful.

30. Mr Tuenuku realistically acknowledges that the prosecution case relies heavily on the acceptance of V as a credible and reliable witness. He submits that the accused had the opportunity to sexually abuse V when she was off school with a swollen leg and he was home alone with her. The alibi for the offending in count 2 was a late invention. V complained to her parents promptly, and she is not responsible for their delayed reporting to the police. Her parents had tried to address the issue within the family. Mr Tuenuku argues that the late reporting to the police has to be understood in the context of the family dynamic. VM and her family had been invited to stay at the house in Cawaira and elders are generally respected in a traditional iTaukei household. The suggested motive for false allegations against the accused makes no sense. VM and her family were chased out of the house by the accused's wife after the matter was reported to the police. V had no reason to make false allegations against the accused.
31. Mr Kumar highlights a contradiction between V's evidence and her mother's evidence. VM testified to having witnessed the accused sexually abuse V in the night whereas V said no such thing. The evidence against his client has been exaggerated. Mr Kumar also makes the point that it seems very odd that V's parents would move into the accused's house with their children if V had told them that the accused had been acting inappropriately towards her in Soasoa. Surely, he argues, they would not have exposed V to a risk of sexual abuse.

Legal Directions/Warnings

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. I remind myself that if the accused's denials are, or may be, true, I must find him not guilty. Even if I reject the accused's evidence, I must not find him guilty unless the prosecution has made me sure of his guilt.
34. Since the accused relies on alibi, I remind myself that the defence bears no burden of proving an alibi. It is for the prosecution to make me sure that the accused does

not have an alibi for the times of the alleged offending. Also, the fact that I am sure that the alibi raised is false does not of itself prove guilt. A false alibi may sometimes be raised by an accused person who thinks that it is easier or better for them to invent an alibi than to tell the truth. Sometimes an innocent person who fears the truth may not be believed may instead invent an alibi.

35. Since the defence has advanced V's parents' desire to remove the accused from his house as a possible motive for the fabricated allegations against the accused, I warn myself that the accused bears no onus to prove a motive to lie, and rejection of the motive asserted does not necessarily justify a conclusion that the complainant's evidence is truthful. A motive to lie or be untruthful may substantially affect the assessment of the credibility of a witness, but it would be wrong 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.
36. The prosecution has placed reliance on V's complainants to her mother as supporting her credibility. I remind myself that a complaint is not evidence of truth. Also, just because a person gives a consistent account about an event does not necessarily mean that account must be true.
37. Having said that, 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.

Analysis

38. The issue I must determine boils down to whether I am sure that the complainant is a truthful and reliable witness whose evidence, considered separately in connection with each count, makes me sure that the accused is guilty as charged. Also, I must be sure that the accused's denials are untrue.

39. It is convenient to begin by addressing the confusion that arose during trial as to where the alleged offending took place. At one point, it appeared that V was saying that the offending particularised in count 1 happened in Soasoa. It later transpired that none of the counts relate to offending in Soasoa. All of the alleged offending is said to have happened at the house in Cawaira. What V said about the accused's inappropriate behaviour in Soasoa provides relevant context for what is alleged to have happened subsequently in Cawaira.

An overview

40. Before considering the counts separately, it is helpful to stand back and consider the totality of the alleged offending in context.
41. I find it particularly telling that V asked her mum about the true relationship between her and the accused shortly after they moved to Soasoa from Nadi. VM supports that V asked her about this relationship, and she had explained that the accused was her stepfather (V's step grandfather). Whilst this may appear to have been an odd question for V to have asked her mum, it seems to me to be precisely the sort of question that would have been prompted by the accused's inappropriate sexual behaviour towards V. As an adolescent girl, V would have been confused about her elderly grandfather behaving in that fashion towards her.
42. One aspect of this case that I have struggled with is the decision by V's parents to move into the accused's home in Cawaira. It seems to me a very strange decision for them to have made if they were aware of the accused's inappropriate sexual interest in V, as V's evidence suggests they must have been. No satisfactory explanation for this decision emerged during trial. I can only assume that there were a number of complex factors at play. VM was invited by her mother to move to Cawaira. It may have been convenient and financially expedient for them to do so, notwithstanding that the cramped conditions were hardly ideal for their young family. It would also appear that a fairly typical attitude of forgiveness may have come into play. Certainly, V's evidence supports that VM was reluctant to report the matter to police (against V's father's better judgment), and that efforts were made to resolve the matter within the family. Ultimately, the decisions to move in with the accused, and delay making a formal complaint to the police, do not cause

me to doubt V's evidence about the accused sexually abusing her, or VM's evidence about what V had told her about that abuse.

43. I have no hesitation in rejecting the defence case that V, and her mother, fabricated false allegations against the accused in order to have him removed from the family home. The accused accepted that VM had never suggested to him that she wanted him out of the house. The partitioning of the house was inconsistent with any such desire. Whilst V's parents would have been, and clearly were, uncomfortable with the accused's behaviour towards V, had they wanted to remove him from the house they would have reported the abuse to the police much earlier than they did. It is pertinent to note that the report to police actually precipitated their own removal from the house. Perhaps this goes some way to explaining VM's reluctance to make a report to the police about what V told her the accused was doing to her.
44. The defence have highlighted a number of inconsistencies in the prosecution case. VM spoke of seeing the accused abuse her daughter in the night on more than one occasion, whereas V herself made no mention of this. This may be explained by the fact that V was not asked about these incidents. VM's decision to try to resolve the issue within the family is, perhaps, understandable in the context of the family dynamic discussed above. I must, however, make it clear that the Court does not condone VM's decision to delay reporting the accused's alleged offending to the appropriate authorities. A parent's primary duty is to protect their children from harm.
45. The evidence about a discussion between her parents and the accused to address his alleged offending is partly inconsistent. V recalled this having taken place after the offending reflected in count 2, immediately after the birthday party, whereas VM recalled the confrontation having taken place after the alleged offending reflected in count 1. Logically, the confrontation would have occurred after V told her mum about the earlier serious offending reflected in count 1. There may well have been more than one confrontation. Be that as it may, in my view, this inconsistency is immaterial. The important point is that V and VM were consistent in their recollection that there was a confrontation at which the accused had made

reference to a devil in him. I do not lose sight of the fact that the accused denies any wrongdoing, and expressly denied having made any apology to V's parents. Evidence about the seeking of apologies is problematic in cases such as this. Whilst I am sure that V's parents spoke to the accused in V's presence in order to try to resolve matters within the family, I am not sure that the accused made any admissions of wrongdoing against V.

46. Finally, I consider the evidence about the house having been partitioned at some point in 2024 to be significant. The accused accepted that he discovered that the house had been partitioned when he returned from one of his regular visits to his farm. He initially claimed not to have been told the reason for the partition, before later testifying that his wife told him that it was to do with an allegation that they were practicing witchcraft. To my mind, the relevance of this evidence is that it supports that there was disharmony in the house. The prosecution relies on that disharmony as supporting the truth of V's allegations that the accused sexually abused her over a period of months in 2024.
47. Turning then to the specific charges.

Count 1- sexual assault

48. To establish count 1, the prosecution must prove beyond reasonable doubt that the accused touched V's vulva and that the assault was unlawful and indecent.
49. V testified that the accused touched and poked her vagina as she lay in bed in the sitting room when she was off school with a swollen leg. In his testimony, the accused accepted that V was off school with a swollen leg in 2024. The evidence supports that V's parents and grandmother were at work during the day, and her siblings were at school. I am satisfied so that I am sure that the accused had the opportunity to sexually assault V, and I am sure that V told the truth about what the accused did to her. Her description of the way in which the accused removed her blanket and clothing before poking her vagina with his fingers was both vivid and realistic. Her description of the accused's attitude towards Unaisi's presence in the house has the ring of truth about it in the context of the accused desiring to have undisturbed access to V in order to sexually abuse her.

50. V was clear that the accused had penetrated her vagina with his fingers without her consent. That constitutes rape, but the prosecution did not seek to amend count 1. Plainly, the accused's offending encompassed the touching of V's vulva. His touching of V's vagina clearly gives rise to a sexual connotation that is sufficient to establish that the assault was indecent. The touching of a child's vagina by an elder relative is plainly contrary to the ordinary standards of respectable people in this community.

Count 2 - Rape

51. To establish count 2, the prosecution must prove beyond reasonable doubt that the accused penetrated V's vulva without her consent and that he knew that V did not consent to that penetration.
52. V's account of having been sent home to collect ice cream is supported by VM's evidence that she sent V to collect ice cream and that, upon her return, V immediately reported to her that the accused had sexually abused her. Recollections differ as to how long V was at home for, but it is clear that there was ample time for the alleged offending to have occurred. I have no doubt that V told the truth about what the accused did to her inside his room. I am sure that, against her resistance, the accused penetrated V's vagina with his fingers. It would have been obvious to the accused that V did not consent to that. I reject the accused's account that he was at his farm on the date of the rape.

Count 3 – Indecent Assault

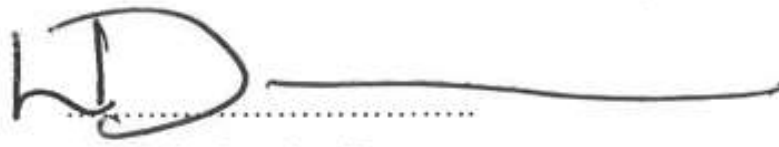
53. To establish count 3, the prosecution must prove beyond reasonable doubt that the accused touched V's thigh and that touching was unlawful and indecent.
54. V gave a clear account of the accused having touched her thigh inside his room when her parents and grandmother were out at work and her siblings were out playing. She said this happened the day after apologies were sought. She told him that he was not supposed to be touching her. V's account has the ring of truth about it. That is precisely what I would have expected V to say to the accused after her parents had confronted him about his inappropriate conduct towards her. I am sure that the accused unlawfully and indecently touched V's thigh. This was

entirely consistent with his course of conduct in relation to V over a period of several months.

Disposal

55. It follows from what I have said above that I am sure that the accused is guilty as charged, and I convict him accordingly.
56. 30 days to appeal to the Court of Appeal.




Hon. Mr Justice Burney

At Labasa

15 January 2026

Solicitors

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Dharmendra Kumar Lawyers for the Accused**