

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Crim. Case No: HAC 211 of 2024

STATE

v

SEPECA LABADAI

Counsel: Mr. J. Singh & Mr. U. Lal for the State
Mr. T. Duanasali & Ms. F. Ratu for the Accused

Date of Trial: 18 – 20 August 2025; 28 August – 3 October 2025 [NCTA]; 1, 2 &
11 December 2025

Date of Judgment: 30 January 2026

JUDGMENT

1. **Sepeca Labadai**, the Accused, is indicted with the following offences laid out as follows in the Information by the Acting Director of Public Prosecutions dated 30 August 2024 and filed on 2 September 2024:

Count 1

Statement of Offence

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

Particulars of Offence

SEPECA LABADAI sometimes between 1st January 2023 and 31st December 2023 at Nasinu in the Central Division penetrated the anus of **IOANE KOROIDIMOKO** with his finger, without his consent.

Count 2

Statement of Offence

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

Particulars of Offence

SEPECA LABADAI sometimes between 1st January 2023 and 31st December 2023 at Nasinu in the Central Division penetrated the anus of **IOANE KOROIDIMOKO** with his penis, without his consent.

Count 3

Statement of Offence

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

Particulars of Offence

SEPECA LABADAI sometimes between 1st January 2023 and 31st December 2023 at Nasinu in the Central Division penetrated the mouth of **IOANE KOROIDIMOKO** with his penis, without his consent.

Count 4

Statement of Offence

SEXUAL ASSAULT: Contrary to section 210(1)(a) of the Crimes Act 2009.

Particulars of Offence

SEPECA LABADAI sometimes between 1st January 2024 and 31st January 2024 at Nasinu in the Central Division unlawfully and indecently assaulted **SOKOIWASA MAWI** by rubbing his penis on his back on top of his clothes.

Count 5

Statement of Offence

ATTEMPT TO COMMIT RAPE: Contrary to section 208 of the Crimes Act 2009.

Particulars of Offence

SEPECA LABADAI sometimes between 1st April 2024 and 31st April 2024 at Nasinu in the Central Division attempted to penetrate the mouth of **SOKOIWASA MAWI** with his penis, without his consent.

Count 6

Statement of Offence

INDECENTLY INSULTING OR ANNOYING ANY PERSON: Contrary to section 213(1)(b) of the Crimes Act 2009.

Particulars of Offence

SEPECA LABADAI on an unknown date between 1st April 2024 and 30th June 2024 at Nasinu in the Central Division with intent to insult the modesty of **SOKOIWASA MAWI** intrudes upon his privacy by exposing his penis to **SOKOIWASA MAWI**, such actions likely to offend his modesty.

2. Trial commenced on 18 August 2025 and prosecution closed its case on 20 August 2025 having called 2 witnesses, namely: PW1 – Soko iwasa Mawi Baleisawani; and PW2 – Isoa Koroidimoko Siko, and tendered the following prosecution exhibits: PE1 – original birth certificate of Isoa Koroidimoko Siko (PW2); and PE1(a) – Copy of Isoa Koroidimoko Siko’s (PW2) birth certificate.
3. At the close of the prosecution case on 20 August 2025, defence Counsel Mr. Tomasi Duanasali indicated to the Court of the defence’s intention to make a *submission of no case to answer*, which was heard on 28 August 2025 and dismissed accordingly on 3 October 2025, and pursuant to section 231(2) of the Criminal Procedure Act 2009, the

defence then opted to call the accused Sepeca Labadai and another to testify under oath. However, upon completion of Sepeca Labadai's (DW1) testimony, the defence counsel then informed the Court of not intending to call the other defence witness, and closed the defence's case.

Burden & Standard of proof

4. Pursuant 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 elements of the following offences in the indictment: *Rape* [Counts 1, 2 & 3]; *Sexual assault* [Count 4]; *Attempt to commit rape* [Count 5]; and *Indecently insulting or annoying any person* [Count 6].

Physical and fault elements for Rape – Counts 1, 2 & 3

5. *Rape* is contrary to section 207(1) & (2)(a), (b) & (c) of the Crimes Act 2009 which state:

Rape

207.-(1) *Any person who rapes another person commits an indictable offence.*

(2) *A person rapes another person if –*

(a) *the person has carnal knowledge with or of the other person without the other person's consent; ...*

(b) *the person penetrates the vulva, vagina or anus of the other person to any extent with a thing or a part of the person's body that is not a penis without the other person's consent; or*

(c) *the person penetrates the mouth of the other person to any extent with the person's penis without the other person's consent.*

206.-(4) *If "carnal knowledge" is used in defining an offence, the offence, so far as regard that element of it, is complete on penetration to any extent.*

Consent is defined under section 206(1) - (2) of the Crimes Act 2009 as:

206. *In this Part –*

(1) *The term "consent" means consent freely and voluntarily given by a person with the necessary mental capacity to give the consent, and the submission without physical resistance by a person to an act of another person shall not alone constitute consent.*

(2) *Without limiting sub-section (1), a person's consent to an act is not freely*

and voluntarily given if it is obtained –
(a) by force; or
(b) by threat or intimidation; or
(c) by fear of bodily harm; or
(d) by exercise of authority; or
(e) by false and fraudulent representations about the nature or purpose of the act; or
(f) by a mistaken belief induced by the accused person that the accused person was the person’s sexual partner.

6. The physical and fault elements for **Rape**, in this instant, are:

[1] A person i.e. the accused Sepeca Labadai;

[2] Penetrated the complainant Ioane Koroidimoko’s

- anus with his finger [Count 1];

- anus with his penis [Count 2];

- mouth with his penis [Count 3];

[3] Without the complainant’s consent [See ss. 206(1) - (2)]; and

[4] Did so intentionally.

Physical and fault elements for Sexual assault – Count 4

7. **Sexual assault** is contrary to section 210(1)(a) of the Crimes Act 2009 which state:

210.-(1) A person commits an indictable offence (which is triable summarily) if he or she-
(a) unlawfully and indecently assaults another person; ...

8. The physical and fault elements for **Sexual assault**, in this instant, are:

[1] A person i.e. the accused Sepeca Labadai;

[2] unlawfully and indecently assaulted the complainant Sokoiwasa Mawi; and

[3] Did so intentionally.

Physical and fault elements for *Attempt to commit rape* – Count 5

9. *Attempt to commit rape* is contrary to section 208 of the Crimes Act 2009 which state:

208. Any person who attempts to commit a rape commits an indictable offence (which is triable summarily).

10. The above provision is to be read in conjunction with sections 44(2) - (3) of the Crimes Act 2009 which state:

44.-(2) for the person to be guilty, the person's conduct must be more than merely preparatory to the commission of the offence, and the question whether conduct is more than merely preparatory to the commission of the offence is one of fact.

*(3) Subject to sub-section (7), for the offence of attempting to commit an offence, **intention and knowledge** are fault elements in relation to each physical element of the offence attempted.*

11. The physical and fault elements for *Attempt to commit rape*, in this instant, are:

[1] A person i.e. the accused Sepeca Labadai;

[2] attempted to penetrate the mouth of complainant Sokoiwasa Mawi with his penis, without the complainant's consent; and

[3] Did so intentionally and knowingly.

Physical and fault elements for *Indecently insulting or annoying any person* – Count 6

12. *Indecently insulting or annoying any person* is contrary to section 213(1)(b) of the Crimes Act 2009 which state:

213.-(1) A person commits a summary offence if he or she, intending to insult the modesty of any person-

(b) intrudes upon the privacy of another person by doing an act of a nature likely to offend his or her modesty.

13. The physical and fault elements for *Indecently insulting or annoying any person*, in this instant, are:

[1] A person i.e. the accused Sepeca Labadai;

[2] intruded upon the privacy of the complainant Sokoiwasa Mawi by exposing his penis to the complainant, which act by its nature is likely to offend the complainant's modesty; and

[3] Did so intentionally.

Agreed Facts

14. The *Agreed Facts* between the prosecution and defence dated 19 November 2024 are as follows:

1) The 1st complainant's name is Ioane Koroidimoko.

2) The 2nd complainant's name is Sokoiwasa Mawi.

3) The accused's name is Sepeca Labadai.

4) Sepeca is also known as Peca.

5) Both complainants worked together with Sepeca Labadai in 2023 & 2024 at the Lyndhurst factory at the greenhouse.

Ioane Koroidimoko

6) Sometimes in 2023 Ioane went to dispose the rubbish at the roundabout in the company carrier truck.

7) Ioane was accompanied by Sepeca as he drove the company carrier truck.

8) There is a shipping container at the Lyndhurst factory compound.

9) Most employees of Lyndhurst factory change their clothe inside that shipping container.

10) There is a tap just near the shipping container where employees change their clothes.

11) Behind the shipping container there is a piece of vacant land with trees and bushes (forest).

15. At trial, prosecution called 2 witnesses, namely: PW1 – Sokoiwasa Mawi Baleisawani; and PW2 – Isoa Koroidimoko Sikoa, and tendered the following prosecution exhibits: PE1 – original birth certificate of Isoa Koroidimoko Sikoa (PW2); and PE1(a) – Copy of Isoa Koroidimoko Sikoa's (PW2) birth certificate. Defence, on the other hand, called 1 witness,

namely: DW1 – Sepeca Labadai (accused).

Prosecution case via PW1 & PW2

PW1 – Sokoiwasa Mawi Baleisawani (Complainant)

16. In examination-in-chief PW1 testified that he is aged 22 years, single, employed at Lyndhurst situated at the tax free zone in Valelevu, Nasinu, and reside at Vusuya, Nausori since class 4 with his parents and siblings of 3 sisters and 2 brothers. At Lyndhurst, PW1 works at the greenhouse where they plant flowers and nurse plants, which they also sell to companies that they service in Suva. PW1 worked at Lyndhurst company in 2024 and then resigned, but resumed work again at the said company in April 2025. PW1 had earlier resigned because his father had asked him to join the British Army and start training for purposes of being recruited in the UK in February 2025. There are about 2000 employees at Lyndhurst company, and PW1 knows a Sepeca Labadai *a.k.a* Peca whom he use to work with at the said company who was based at the Landscaping section, while PW1 was based at the greenhouse. PW1 has known Sepeca Labadai since commencing work at the greenhouse in January 2024, and prior to that, PW1 worked at Shop & Save in Nabua. In terms of working relationship, at times PW1 and Sepeca Labadai would be in good speaking terms, but for other times they were not in good terms. They would talk about work and what they would be doing around the nursery, and sometimes do this during tea time and breaks. As to bad working relationship with Sepeca Labadai, PW1 stated that sometimes when they are together, Sepeca would signal him by biting his lower lip and fist, which PW1 demonstrated by holding up his right fist and biting it via his mouth and teeth. Sepeca would signal PW1 during tea in the presence of a small crowd, and also stare and smile at PW1, which would make PW1 think that Sepeca was trying to get his attention, and PW1 would react by turning away to avoid seeing Sepeca because when he worked prior at Shop & Save, he was never experienced such behaviour. PW1 was also signaled by Sepeca while working at the nursery, and one night when Sepeca called him, PW1 then told a lady co-worker about it.

Sepeca Labadai continued signaling PW1, and once when PW1 was working in the container and bending over, Sepeca came from behind and rubbed the front part of his trousers on PW1's back. There are 2 shipping containers located near the greenhouse, in which one is

used to keep the tools, and the other for the workers to change. The container that PW1 was in at that point in time is approximately 30 – 40 meters in length, which length was demonstrated by PW1 pointing at the main door entrance /exit for High Court 10 to the Judge's door. The width or breadth of the container is approximately 2 – 3 meters, which breadth was also demonstrated by PW1 pointing at the wall adjacent to where he is sitting in the witness box in High Court 10 to the edge of the judge's bench on the lefthand side from where the judge presides. The container that PW1 was inside has no window but only 2 flap doors at the entrance, and PW1 was looking inside for a fitting for the pipe when Sepeca approached from behind and rubbed the front part of his trousers on PW1's back, and PW1 could not recall the time of the day this had happened. PW1 reacted by turning around to look at Sepeca, and what he meant by 'the front part of his trousers' is that Sepeca had rubbed his male private part or penis which was still inside his pants on PW1's back just below his hp and buttocks for about 1 to 2 minutes. At that particular time, Sepeca and PW1 wore the greenhouse uniform consisting of black trousers and greenhouse t-shirt. When Sepeca rubbed his penis on PW1's buttocks, he then told PW1 to look at his erect and hard penis, to which PW1 turned around, said nothing and exited the container. PW1 did not say anything to Sepeca at that time because he was new at work and did not want to utter a word. PW1 did not inform anyone of what Sepeca had done to him inside that container because he was new at work and also afraid to tell anyone of the incident.

In April 2024, PW1 was still working at Lyndhurst company, and picked and dropped back home at Vusuya, Nausori by the company bus. At that time, Sepeca would sometimes drive a Landcruiser or a small car to work. PW1 had travelled twice in Sepeca's car, the first time was with his other colleague who had disembarked in Nausori, and the second occasion was just him and Sepeca in the small car. On that second occasion Sepeca had asked him to be dropped to Vusuya, to which PW1 agreed and told also told a female co-worker of him getting into the car driven by Sepeca. Inside that car, PW1 sat in the front passenger seat as the backseat was filled with 3 bags of clothes as is the routine on Fridays when they would be given cuttings of clothes already sewn. Whilst in the car, they then followed the main road to Nausori, and reaching close to Mako, Sepeca began flirting with PW1 and told PW1 that his penis is erect and hard and for PW1 to touch it and masturbate him. PW1 did not know what

to do at that very moment because he was afraid and just sat there and looked away towards the outside of the car window. According to PW1, while driving Sepeca was able to take off his pants just below his hip by pulling down his trousers with one hand while holding the steering wheel with the other hand, which PW1 demonstrated by pretending to hold the steering wheel with one hand and using the other hand to pull down the pants, and then switching hands accordingly for purposes of pulling down the other pair of pants. When his pants was down just below his hip, Sepeca then showed PW1 his penis, and forcibly pulled PW1's hand to touch his penis and masturbate him, and then forcibly pulled PW1's neck with his left hand to suck his penis while holding onto the steering wheel with his right hand. PW1 reacted by pushing Sepeca's left hand away and then looked outside the window, but Sepeca kept forcing PW1 to masturbate him and suck his erect penis. PW1 did not suck Sepeca's penis at that point in time despite Sepeca's insistence and force until they reached Nausori. On that particular day PW1 had not indicated to Sepeca of wanting to suck his penis including when he got into the car with Sepeca and disembarking in Nausori.

PW1 did not agree to suck Sepeca's penis, and when he pushed Sepeca's hand away, Sepeca kept on saying to PW1 that his penis was erect. When Sepeca pulled PW1's neck and forced him to suck his penis, PW1 felt afraid and wanted to jump out of the car because that was the first time for someone to force him to engage in such act.

The shipping containers at Lyndhurst don't have toilet and bathroom, which facilities are in a separate standalone building located behind Lyndhurst factory accessible by males in the greenhouse and factory. There are 2 separate toilets, however, one toilet has a shower adjacent to it, situated within a building. When one enters that building, there is an open space which is 2 meters in length and 1½ meters in breadth, and then there are the two separate doors to the toilets. In that open space is a sink, mirror and a window, and the two toilets have windows. If someone is using the toilet, the others usually wait in that open space. PW1 recalls being with Sepeca in that open space, but could not recall June 2024. When PW1 exited from the toilet after urinating, he then saw Sepeca standing alone in that open space naked with a towel around his neck. Sepeca then told PW1, "*How about this*" and looked down at his own penis, and PW1 was shocked and reacted by immediately exiting the main door. PW1 recalled that Sepeca had exposed his penis to him at around 4.15pm, and upon exiting that building, PW1

went straight to the nursery, grabbed his bag and headed straight for the bus.

According to PW1 this is the 3rd or 4th time that Sepeca had exposed his penis to him. PW1 then shared what Sepeca had been doing to him to his manager.

PW1 also sought the advice from the lady counsellor of the company who may have also reported the matter to the police. PW1 then went to the Valelevu police station to provide his statement.

17. In cross-examination by defence counsel, PW1 stated that he commenced work at Lyndhurst in 2024, and usually begin work at the greenhouse at 7.45am and sign out at 4.15pm, with the expectation that everyone is out of the compound by that time. Lyndhurst staff meeting is usually held every Tuesday, and sometimes PW1 takes the minutes of the meeting. There are about 30 to 40 I-Taukei staff at the greenhouse who also have tea breaks. PW1 calls Sepeca as 'Peca' at work, but does not call him 'Tau' as he is from Bua. PW1 usually shares jokes with other staff including Sepeca, and their relationship was good sometimes. The staff at the greenhouse would be in good terms with each other and sometimes fight. PW1 did not agree with the proposition that they share vulgar and sexual jokes, but admitted that the staff usually joke around at work. According to PW1 the shipping container is not situated beside the greenhouse but near it, and both are adjacent to the security booth which is usually occupied by the security officers. In 2024 there were two women who occupied the nursery as workers. PW1 could not recall the time he entered the container, and maintained that he did enter the container. PW1 agreed that in April 2024 Sepeca asked him to drop him off in his car to Nausori. PW1 believed that he was picked up by Sepeca in his car after 4.15pm, and maintained that whatever happened in that car that he had earlier testified actually happened, and disagreed with the defence proposition that it did not happen. PW1 stated that before he looked outside the window, he saw Sepeca attempting to pull down his pants. PW1 stated that there are 2 toilets in the ablution block, and it is used by males who work at the factory and greenhouse. PW1 believed that it was after 4.15pm when he came out of the toilet and into the open space within the ablution block when he then saw Sepeca standing in the open space. PW1 maintained that whatever happened in the open space of the ablution block actually happened, and disagreed with defence proposition suggesting otherwise. PW1 stated that the

lady counsellor and himself went to the Valelevu police station to give his statement to the police. PW1 agreed that he had lodged the complaint against Sepeca Labadai 5 months after the alleged incidents. PW1 was not aware of staff from the greenhouse being terminated in 2024. PW1 knew greenhouse staff namely Maciu and Ratu Inoke, but wasn't sure or even knew of their termination. PW1 stated that Maciu is his friend and they worked together in the nursery.

18. In re-examination by the prosecutor, PW1 stated that he had lodged the complaints against Sepeca Labadai after 5 months of the alleged incidents because Lyndhurst is owned by a Buan man, and some of the workers are from Bua and also related to Sepeca.

PW2 – Isoa Koroidimoko Sikoa (Complainant)

19. In examination-in-chief, PW2 testified that his name is Isoa Koroidimoko Sikoa, aged 22 years, resides at Davuilevu Housing, and employed at Lyndhurst greenhouse. He is also known as Ioane Koroidimoko, and it is on his birth certificate. PW2 worked at Lyndhurst in 2023 and 2024, and knew a person by the name of Sepeca Labadai *a.k.a* Peca being a co-worker at Lyndhurst company. PW2 had a bad working relationship with Sepeca because Sepeca touched his body on the buttocks. Sepeca had touched PW2's buttocks in 2023 when they had taken out the rubbish to the roundabout to dispose of it in the company carrier truck. After they had disposed the rubbish, Sepeca poked PW2's anus with his hand in the carrier, which PW2 demonstrated by drawing out the right pointing finger being the finger Sepeca used to poke his anus. After that, Sepeca inserted his penis into PW2's anus. Sepeca told PW2 to bend over in the carrier, and PW2 told him 'No', but bent over instead. PW2 was afraid when Sepeca inserted his pointing finger into PW2's anus, which Sepeca did for a long time, and PW2 did not do anything because he was afraid. Sepeca inserted his penis into PW2's anus for a short period, and when Sepeca was done, PW2 felt afraid.

After that Sepeca inserted his penis into PW2's mouth. PW2 stated that Sepeca had forced him to bend over and then Sepeca inserted his pointing finger into PW2's anus, and then Sepeca's penis into PW2's anus. Sepeca inserted his penis into PW2's mouth in the bush or forest next to the shipping container in the evening. Sepeca forced PW2 to kneel down in the

bush and then inserted his penis into PW2's mouth, which was the first and only time that Sepeca did this to PW2. When Sepeca had inserted his penis into PW2's mouth, PW2 did not say anything to Sepeca because he was afraid.

PW2 stated that him and Sepeca had taken the rubbish for dumping at lunchtime. Sepeca had inserted his penis into PW2's mouth in the evening. PW2 went to the Valelevu police station to tell the police about this case.

Prosecutor Mr. Singh then tendered by consent of both parties the (i) original birth certificate of PW2 marked as **PE1**, and certified copy of PW2's birth certificate marked as **PE1a**, which has PW2's birth name as 'Isoa Koroidimoko Sikoa' *vis-à-vis* the name 'Ioane Koroidimoko' in the Information.

20. In cross-examination, PW2 stated that he was employed at Lyndhurst in 2023, and in January 2023 he was transferred to the University of the South Pacific (USP) and based there the whole of 2023. While based at USP, PW2 would sign in there at USP and then return home after work, and never entered the Lyndhurst compound. PW2 maintained that Sepeca forced him and (i) poked his buttocks with the pointing finger on the right hand; (ii) put his penis into PW2's mouth; and (iii) inserted his penis into PW2's anus which happened in May 2023 while based at USP. PW2 agreed that in 2023 he was never at Lyndhurst, Valelevu. PW2 agreed that he went to Valelevu police station to lodge the complaint against Sepeca after 1 year of the alleged incidents. PW2 stated that he was threatened by Sepeca.
21. In re-examination by the prosecutor, PW1 stated that in 2023, he was always working at USP, and never at Lyndhurst. PW2 stated that he was working at Lyndhurst when he went with Sepeca to dispose the rubbish, and also to the forest.

Defence case via DW1

DW1 – Sepeca Labadai

22. In examination-in-chief, DW1 testified that he hails from Dama village in Bua, and reside at

Caubati. He is at home at the moment, and the last time he was employed was in 2023 at the sewing section of Lyndhurst company situated at Valelevu. He began working for Lyndhurst company in 2002 starting as a driver and after a few years he then cut grass. There are 18 people in his team, and he usually sign in for work after 7 or 7.45am, and knocks off at 4.15pm. They would have staff meeting on every Tuesday of the week conducted by their supervisor, and all 18 workers and sometimes including the nurse and counsellor would attend the meeting to explain things to the staff. A complaint or grievance would be raised in the meeting. In 2023 they would have this meeting every week, and he would be the one raising the issue of those consuming marijuana at the work place. The said issue would be taken up to their CEO, and some of the people implicated would be relieved from work, for instance, one Inoke, Maciu and Sale. In the period 1 January 2024 and 30 June 2024, meetings would be conducted until the time he retired. During this staff meeting some staff would raise the issue of workers sleeping at work including idleness at work, and those implicated were given a warning letter.

At Lyndhurst, he worked with 18 other workers, their supervisor being Renee and her assistant is Melaia, and there is Lusi, Lanietta, Setefano, Ilimo, Siriako, Pita, Josateki, Isoa, Sokoiwasa, Inoke, Dakulala, and Sale Sorovaki. The 18 workers he worked with were like family to him, and most times after their staff meeting they would have tea together before their respective work were allocated to them by their supervisor Renee. The Isoa that he named earlier is usually called by that name and knew him as Isoa Koroidimoko, and hails from Taveuni. DW1 stated that sometimes the said Isoa and him would work together before Isoa had gone to USP. DW1 and Isoa worked together when the supervisor allocated them their task, and five persons would be allocated for grass cutting at the GCC complex. DW1 stated that he worked with Isoa in 2021 and 2022, and Isoa went to USP in 2023 and remained working there at USP until DW1 retired from work.

DW1 thought that Sokoiwasa is either from Lau or Tailevu. Sometimes in the period 1 January 2024 to 30 June 2024, DW1 and Sokoiwasa would help the older women in the nursery. DW1 was tasked to cut the grass in the compound, while Sokoiwasa would help the older women in the nursery with planting. DW1 stated that his relationship with Sokoiwasa

everyday was like family. DW1 stated that Isoa and Sokoiwasa made allegations against him of forcing them to have sex with him, and that is why he is in Court today.

DW1 denied the allegation of *rape* in Count 1, and stated that he did not penetrate Isoa Koroidimoko's anus with his finger, without Isoa's consent. DW1 denied the allegation of *rape* in Count 2, and he believed that these allegations were made against him due to his prolonged work at Lyndhurst. DW1 denied the allegation of *rape* in Count 3, and stated that he did not penetrate Isoa Koroidimoko's mouth with his penis, without Isoa's consent, between 1 January 2023 and 31 December 2023. DW1 further stated that during their staff meeting no such issue was raised during the meetings. DW1 denied the allegation of *sexual assault* in Count 4 because at their work place they would always be together in groups to complete their allocated task. DW1 denied the allegation of *attempt to commit rape* in Count 5. DW1 denied the allegation of *indecently insulting or annoying any person* in Count 6, because during their meetings at work, no such issue was raised during those meetings. DW1 stated that the allegations in Counts 1, 2, 3, 4, 5 and 6 in the indictment were never raised during the staff meetings.

23. In cross-examination by the prosecutor, DW1 confirmed that he use to work with Isoa and Sokoiwasa at Lyndhurst, and his colleagues at work were like family to him. Sometimes during their meeting DW1 would see changes in his colleagues faces when he makes a lot of suggestion. Sometimes DW1's relationship with his colleagues at work is good and sometimes not so good. DW1 is usually the one raising issues or complaints against the workers who do not comply with the company policies. DW1 had a good working relationship with Isoa and Sokoiwasa. When their supervisor allocate their task, they would be put in groups of five. DW1 doesn't go and put the rubbish outside after he knocks off from work. DW1 wasn't working alone with Sokoiwasa sometime between 2023 and 2024. DW1 confirmed that he doesn't have any issues with Isoa and Sokoiwasa, and he is usually the one who raise issues or complaints at the staff meeting. DW1 would complain against those who sell cigarettes at the work place including those who don't act accordingly and in a proper way at work. DW1 raised complaints against Sale and Mika and also Sokoiwasa for selling cigarettes at work. DW1 also raised issues against those who sell marijuana at work, and doesn't know whether Sokoiwasa sold marijuana at work. DW1 would also raise complaint

against Isoa and Sokoiwasa for going elsewhere when it is time for them to do their work. Other than those, DW1 had no other complaints against Isoa and Sokoiwasa.

DW1 denied Count 1, that is, penetrating Isoa Koroidimoko's anus with his fingers, without Isoa's consent, between 1 January 2023 and 31 December 2023, because Isoa was working at USP in 2023, although DW1 cannot recall when exactly Isoa had gone to work at USP. DW1 agreed that Isoa worked at Lyndhurst in 2023, and liked working with Isoa Koroidimoko.

DW1 liked working with Sokoiwasa, and he would stop and talk to Sokoiwasa at work, but he would not do the same for Isoa. DW1 didn't wink at Sokoiwasa nor laughed and smiled at Sokoiwasa and Isoa. DW1 has been employed at Lyndhurst for 20 years, and Isoa and Sokoiwasa joined Lyndhurst in 2023 and were junior to him. DW1 would not tell them what to do and what not to do, but their supervisor would direct them accordingly.

DW1 denied Count 2, that is, inserting his penis into the anus of Isoa Koroidimoko, without Isoa's consent, because they were not working together at that particular time from 1 January 2023 to 31 December 2023.

DW1 denied Count 3, that is, penetrating the mouth of Isoa Koroidimoko with his penis, without Isoa's consent, because at that particular period from 1 January 2023 to 31 December 2023, Isoa Koroidimoko while being an employee of Lyndhurst was based at USP with a different supervisor, and DW1 based at Valelevu.

DW1 stated that as for Count 4, he didn't rub his penis on Sokoiwasa's back on top of his clothes. DW1 confirmed working with Sokoiwasa in January 2024. DW1 stated that in January 2024 he worked outside while Sokoiwasa worked inside, and they would not meet outside work.

DW1 stated that he didn't travel with Sokoiwasa in the same vehicle in 2023.

DW1 denied Count 5, that is, between 1 and 30 April 2024, he attempted to penetrate

Sokoiwasa's mouth with his penis, without Sokoiwasa's consent.

As for Count 6, DW1 stated that he didn't show his penis to Sokoiwasa between 1 April and 30 June 2024.

DW1 denied all allegations against him and stated that he did not take advantage of Isoa and Sokoiwasa.

24. In re-examination by defence counsel, DW1 stated that from 2023 until he retired, Isoa Koroidimoko was based at USP.

Analysis of the entire prosecution vis-à-vis defence case

25. The physical and fault elements for *Rape* in Counts 1, 2 and 3 are:

[1] A person i.e. the accused Sepeca Labadai;

[2] Penetrated the complainant Ioane Koroidimoko's *a.k.a* Isoa Koroidimoko Siko's

- anus with his finger [Count 1];
- anus with his penis [Count 2];
- mouth with his penis [Count 3];

[3] Without the complainant's consent [See ss. 206(1) - (2)]; and

[4] Did so intentionally.

26. Having carefully considered the entire evidence, I find as follows in relation to the *Rape* in Counts 1, 2 and 3:

- a) The identification of the accused Sepeca Labadai *a.k.a* Peca is well substantiated and established.

b) The *Agreed Facts* between the prosecution and defence dated 19 November 2024 at paragraphs 5 to 11 including **PE1** & **PE1a**, establishes the following evidence regarding Sepeca Labadai *a.k.a* Peca and Isoa Koroidimoko Sikoa (PW2):

5) Both complainants worked together with Sepeca Labadai in 2023 & 2024 at the Lyndhurst factory at the greenhouse.

Ioane Koroidimoko a.k.a Isoa Koroidimoko Sikoa

6) Sometimes in 2023 Ioane went to dispose the rubbish at the roundabout in the company carrier truck.

7) Ioane was accompanied by Sepeca as he drove the company carrier truck.

8) There is a shipping container at the Lyndhurst factory compound.

9) Most employees of Lyndhurst factory change their clothe inside that shipping container.

10) There is a tap just near the shipping container where employees change their clothes.

11) Behind the shipping container there is a piece of vacant land with trees and bushes (forest).

Count 1 - Rape

c) PW2 Isoa Koroidimoko Sikoa testified in examination-in-chief that sometime in 2023 after disposing the rubbish in the company carrier truck, Sepeca poked PW2's anus with his right pointing finger inside the carrier truck, which Sepeca did for a long time, and PW2 felt afraid. The particulars of the *Rape* in Count 1 notes that this happened in Nasinu and supposedly at Valelevu where Lyndhurst company is located.

d) However, in cross-examination, PW2 stated that in the whole of 2023, he was based at USP working for Lyndhurst company, and never entered the compound of the said company situated at Valelevu.

e) PW2's account in cross-examination as to the place where the alleged *Rape* in Count 1 occurred being at USP, heavily contradicts the place alleged in the particulars of Count 1,

and with such fundamental evidential discrepancy, I therefore find PW2's account in relation to Count 1 unreliable, doubtful and attach no weight to it.

Count 2 – Rape

- f) PW2 Isoa Koroidimoko Sikoa testified in examination-in-chief that after Sepeca had poked his anus with the right pointing finger inside the carrier, Sepeca then forced him to bend and then inserted his penis into PW2's anus.
- g) I find that PW2's testimony in relation to Count 2 is unreliable, doubtful and of no probative weight, based primarily on the same rationale for Count 1 noted in paragraphs c, d and e above.

Count 3 - Rape

- h) PW2 Isoa Koroidimoko Sikoa testified in examination-in-chief that in 2023 in the evening while in the bush next to the shipping containers at Lyndhurst in Valelevu, Sepeca forced him to kneel down and then inserted his penis into PW2's mouth.
- i) I find that PW2's testimony in relation to Count 3 is unreliable, doubtful and of no probative weight, based primarily on the same rationale for Count 1 noted in paragraphs c, d and e above.

Count 4 – Sexual assault

27. The physical and fault elements for *Sexual assault* in Count 4 are:

- [1] A person i.e. the accused Sepeca Labadai;
- [2] unlawfully and indecently assaulted the complainant Sokoiwasa Mawi; and
- [3] Did so intentionally.

28. Having carefully scrutinized the entire prosecution and defence evidence, I find that PW1:

Sokoiwasa Mawi Baleisawani is a credible and reliable witness whose account I have attached substantial weight in terms of believability, and concurrently reject DW1: Sepeca Labadai's denial of the Count 4, thus deciding that Sepeca Labadai sexually assaulted PW1 by rubbing his penis on PW1's back on top of his clothes sometime in January 2024.

Count 5 – Attempt to commit rape

29. The physical and fault elements for *Attempt to commit rape* in Count 5 are:

- [1] A person i.e. the accused Sepeca Labadai;
- [2] attempted to penetrate the mouth of complainant Sokoiwasa Mawi with his penis, without the complainant's consent; and
- [3] Did so intentionally and knowingly.

30. Having carefully considered the entire prosecution and defence evidence, I find that PW1: Sokoiwasa Mawi Baleisawani is a credible and reliable witness whose account I have attached substantial weight in terms of believability, and concurrently reject DW1: Sepeca Labadai's denial of Count 5, thus deciding that Sepeca Labadai attempted to penetrate PW1's mouth with his penis, without PW1's consent, sometime in April 2024.

Count 6 – Indecently insulting or annoying any person

31. The physical and fault elements for *Indecently insulting or annoying any person* in Count 6 are:

- [1] A person i.e. the accused Sepeca Labadai;
- [2] intruded upon the privacy of the complainant Sokoiwasa Mawi by exposing his penis to the complainant, which act by its nature is likely to offend the complainant's modesty; and
- [3] Did so intentionally.

32. Having carefully considered the entire prosecution and defence evidence, I find that PW1: Sokoiwasa Mawi Baleisawani is a credible and reliable witness whose account I have attached substantial weight in terms of believability, and concurrently reject DW1: Sepeca Labadai's denial of Count 6, thus deciding that Sepeca Labadai indecently insulted the modesty of PW1 by exposing his penis to PW1, sometime between 1 April 2024 and 30 June 2024.

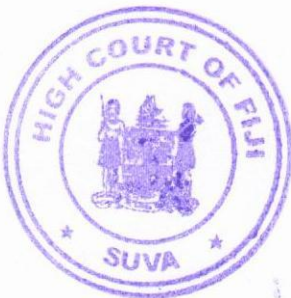
CONCLUSION

33. Based on all the reasons highlighted above, I find as follows:

- (1) **Sepeca Labadai** is found *not guilty* and *acquitted* of *Rape* in Counts 1, 2 and 3 of the Information.
- (2) **Sepeca Labadai** is, however, found *guilty* and *convicted* of Count 4 – *Sexual assault*; Count 5 – *Attempt to commit rape*; and Count 6 – *Indecently insulting or annoying any person*, in the Information.

34. Bail is hereby revoked.

35. Thirty (30) days to appeal to the Fiji Court of Appeal.



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

At Suva

30 January 2026

Solicitors

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