

**IN THE MAGISTRATES' COURT OF FIJI**

**AT SUVA**

Criminal Case :1617/2024

STATE

V

**RATU AISAKE NAULU**

**For the Prosecution: Mr.Kumar(ODPP)**

**The accused: In Person**

**Date of Hearing: 04 September 2025**

**Date of Judgment: 05 September 2025**

**(The victim is a juvenile and her name is suppressed and identified as Ms.AN in this judgment)**

**JUDGMENT**

1. The accused is charged with two counts(02) Defilement of Young Person between the age of 13 and 16 years of age , contrary to Section 215(1) of the Crimes Act,<sup>1</sup> .
2. The particulars of the offences states :

**Count 1**

**RATU AISAKE NAULU on unknown occasion between the 1<sup>st</sup> day of December 2023 and 31<sup>st</sup> December 2023 at Suva in the Central Division had unlawful carnal knowledge of Ms.AN a person above the age of 13 years and under the age of 16 years**

**Count 2**

**RATU AISAKE NAULU on unknown occasion between the 1st day of January 2024 and 31st January 2024 at Suva in the Central Division had unlawful carnal knowledge of Ms.AN a person above the age of 13 years and under the age of 16 years**

3. The accused pleaded not guilty hence this proceeded for the hearing.
4. The prosecution called the victim and her mother as witnesses, while the accused elected to remain silent. At the conclusion of the case, the accused was given time to file a closing submission.

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<sup>1</sup> No 44 of 2009.

5. I will first summarize the evidence presented by the prosecution.
6. The victim, Ms. AN, was 14 years old in 2023 and lived in Tacirua with her grandparents. In December 2023, the accused came to her home and asked her to accompany him to Nandera to buy grog. She went with him in his vehicle, and after purchasing the grog, he parked the car, moved to the back seat, and had sexual intercourse with her. They then returned home.
7. Again, in January 2024, she went with him to town, and from there, they went to a hotel in Toorak, where they had sexual intercourse again. On both occasions, she consented to the sexual activity and did not inform anyone about it. She had known the accused since Class 6 and, after describing his features, identified him in court. She also identified her birth certificate.
8. During cross-examination, the witness was only asked whether she had been forced into the acts, to which she responded that the sex was consensual.
9. PW2, the victim's mother, testified that her daughter was born on 28/05/2009 and submitted the birth certificate as evidence.

10. In **Woolmington v DPP**<sup>2</sup> it was held that

**“Throughout the web of the English criminal law one golden thread is always to be seen, that it is the duty of the prosecution to prove the prisoner's guilt, subject [*to the qualification involving the defence of insanity and to any statutory exception*]. If at the end of and on the whole of the case, there is a reasonable doubt, created by the evidence given either by the prosecution or the prisoner, as to whether [*the offence was committed by him*], the prosecution has not made out the case and the prisoner is entitled to an acquittal. No matter what the charge or where the trial, the principle that the prosecution must prove the guilt of the prisoner is part of the common law of England and no attempt to whittle it down can be entertained” (per Viscount Sankey L.C. at pp. 481-482).**

11. The accused was charged with two counts of Defilement contrary to section 215 of the Crimes Act which states :

**“A person commits a summary offence if he or she unlawfully and carnally knows or attempts to have unlawful carnal knowledge of any person being of or above the age of 13 years and under the age of 16 years.”**

12. The Prosecution has to prove beyond reasonable doubt the following elements :

**a. The accused;**

**b. Had unlawful carnal knowledge with the victim who was above the age of 13 years and below the age of 16 years on December 2023 ( 1<sup>st</sup> Count) and January 2024(2<sup>nd</sup> count).**

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<sup>2</sup> [1935] AC 462

## Analysis

13. Although the prosecution presented evidence during the hearing to establish that there was no issue of mistaken identity, I find that identity was not a matter in dispute. The accused, in his cross-examination of the victim, did not deny engaging in sexual intercourse with her. His line of questioning focused solely on establishing that the acts were consensual. However, in for the Defilement, consent is not a legally relevant factor.<sup>3</sup>
14. The victim's birth certificate (Exhibit PE1) confirms that she was born on 28 May 2009. Therefore, at the time of the incidents in December 2023 and January 2024, she was only 14 years of age.
15. Accordingly, the sole issue for determination is whether sexual intercourse occurred between the accused and the victim on the dates in question.
16. Under the current legal framework in Fiji, corroboration of the victim's testimony in cases involving sexual offences is not a mandatory requirement. <sup>4</sup>The court may convict solely on the basis of the victim's credible and reliable evidence, provided it meets the threshold of proof beyond reasonable doubt.
17. I am satisfied that the victim gave truthful and credible evidence before the court. She clearly described the events that transpired between herself and the accused on both occasions. She also, albeit reluctantly, admitted that she had consented to the sexual acts.
18. The accused has not invoked the statutory defence in this case.<sup>5</sup> However, in the interest of fairness, the Prosecution has presented evidence demonstrating that the accused has known the victim since year 6 and was aware that she was attending school. Therefore, even if the accused had relied on this defence, it would not have been successful in this case.
19. In light of the above mentioned reasons, I am satisfied that the prosecution has proven both counts beyond reasonable doubt.
20. I find the accused guilty as charged and hereby convict him accordingly
21. 28 days to appeal.



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<sup>3</sup> S 215(3), No 44 of 2009.

<sup>4</sup> S 129, No 43 of 2009.

<sup>5</sup> S 215. No 44 of 2009.