

IN THE HIGH COURT OF SOLOMON ISLANDS

Criminal Jurisdiction
(Faukona, DCJ)

CrC No. 360 of 2023.

REX

V

SELWYN ALFRED.

Date of Hearing: 28th August 2024, 29th August 2024, 30th August 2024, 2nd September 2024, 3rd September 2024, 4th September 2024, 11th December 2024, 12th December 2024, 12th March 2025.

Date of Judgment: 4th July 2025.

*Mrs Waisanau with Mrs Rehomora for the Crown.
Miss Palmer for the Defendant.*

JUDGMENT AFTER FULL TRIAL

Faukona, DCJ:

Introduction

1. The Complainant in this case is Miss Joylyn Puka of Nugu Settlement, Haroro Village, Big Ngella Central Province.
2. She was 16 years old at the time of offending on 7th April 2023. She was a Form 2 boarding student at Siota Provincial Secondary School by then.
3. The Defendant in this case is Selwyn Alfred of Obokiki Settlement, Belanga Village, Small Ngella Central Province. He was 33 years old at the time of offending and a School Bursar at Siota Provincial Secondary School, Central Province.
4. The incidents alleged to have occurred on 7th April 2023, at the Defendant's house at Obokiki Settlement, Small Ngella, Central Province.

Brief background facts

5. The Complainant was at Namu's house when the Defendant instructed Mary to call the Complainant to go and see him. The girl then approached the Complainant and call her. In respond the Complinat went to the Defendant. The Defendant propose to her and Mary to accompany him to his house. With some reservations the Complainant went with Defendant and Mary to the edge of the playing ground. However, whilst at some bush patches at the end of the playing field, the Complinat and the Defendant were sitting down and telling stories, Mary was standing. At that moment the church bell rang and Mary had to go back and attended church services leaving the Defendant and the Complainant sitting there. Later both went to Obokiki village and spent the night there.
6. During the night that both had sexual intercourse twice.
7. The Defendant is charged with two counts of Rape Contrary to section 136 F (1) (a) and (b) of the Penal Code as amended by the Penal Code (Amendment) (Sexual Offences) Act 2016.
8. On the first occasion on 7th April 2023, the Defendant had sexual intercourse with the Complainant by licking her vagina and inserting his penis into her vagina without her consent and knowing about or being reckless as to the lack of consent.
9. On the second occasion on the same day with some interval the Defendant had sexual intercourse with the Complainant again by inserting his penis into her vagina without her consent and knowing about or being reckless as to the lack of consent.
10. On 22nd March 2023, the Defendant was arraigned and pleaded not guilty to the charges and the matter therefore proceeded to trial.
11. The offence of rape as defined by S.136 F (1) (a) and (b) of the Penal Code as amended in 2016, carries the maximum penalty of life imprisonment.

Issue for Consideration

12. The issue is whether on both occasions, the sexual intercourse was consensual, or whether the Defendant knew about, or was being reckless to the lack of consent.

13. It appears from the submissions the Defendant does not contest that he had sexual intercourse with the Complainant twice on 7th April 2023, at his house at Obokiki Settlement.
14. Therefore, the only issue for this court to consider is whether sexual intercourse was consensual or that Defendant knew about, or was reckless as to lack of consent.

The Law

15. The offence of Rape is defined by S. 136 F (1) of the Penal Code as amended by the Penal Code (Amendment) (Sexual Offence) Act 2016.

Subsection (i) states, A person commits an offence if the person has sexual intercourse with another;

(a) Without the other person's consent; and

(b) Knowing about or being reckless as to the lack of consent. The maximum penalty is life imprisonment.

16. S.136 D (2) (b) of the Penal Code as amended states: subsection (2) in this part, sexual intercourse means any of the following
(b)The penetration, to any extent, of the genitalia or anus of a person by an object manipulated by another person except if that penetration is carried out for a lawful medical purpose is otherwise authorised by law.

17. S.136 A (i) define the word consent which means free and voluntary agreement. However sub-section (2) provides circumstances in which a person not consenting to an act include circumstances where; (a) the person submits because of force, fear of force, or fear of harm of any type to himself or herself or another person.

18. There are circumstances which a person does not consent to an act, however most relevant to this case is subsection (2) (a) force, fear of force or fear of harm...

19. In the case of R v Gege¹, the court explain two aspects of consent to rape. It states;

“There are two aspects to consent. The first the Crown must prove that the Complainant did not consent to sexual intercourse. There is a very real issue about this. The second is once the Crown has proved that the Complainant did not consent, the Crown must prove that the accused either knew she was not consenting or that he was reckless as to the lack of consent.

“Consent is a positive thing; it is not the absence of struggling or shouting out although struggling and shouting out can be strong evidence show of lack of consent. Consent may be given by someone who is in a position to understand the significance of what a Complainant is consenting to. However, a consent that may be given and later be regretted. A reluctant consent is still consent.

20. There are 5 element the Crown need to prove in a rape case. In this case, elements 1-3 has been conceded to. The Crown only need to proof 2 elements; one that sexual intercourse was without the consent of the Complainant; secondly that the Defendant knowing about it, or being reckless as to the lack of consent. The two elements are corelated and will be dealt with at one go.

Evidence and Analysis

21. The offences of rape is alleged to have occurred and committed by the defendant on 7th April 2023, on a Good Friday, at his home village Ombokiki Settlement, Small Ngella.
22. During Good Friday weekend, normally students went home for a break, but others would remain in the school.
23. On that day the Defendant who was the bursar of Siota Provincial Secondary School, in the morning part, some of his friends arrived in his village with some beers so they had some beers. Later the defendant went to the School and again drunk beer with some friends and colleagues.
24. At some point of the day, nearing to lunch, the Complainant went to a well to have a wash. On her way, she met the Defendant. According to the Complainant, the issue of her origin, and where she came from was the brief agenda discussed.
25. However, according to the Defendant, it was a privilege for him to express his desire that he liked the Complainant. In return, the Complainant expressed the same.
26. At the second meeting the Complainant stated in her evidence that the Defendant asked her and Mary to accompany him to his house but she refused. However, the Defendant further insisted and beckon the girls to agree. He suggested that after leaving him at his house, the girls would return.
27. Eventually, despite some disagreement, the Complainant, PW2 and the Defendant walked along the edge of the field to its end. PW5, Mr Tumulina saw them walked to the eastern end of the field that led to the bush.

Evidence related to what happened at the edge of the field

28. PW2, states that they went to a koilo tree. Again, the Defendant reminded the girls that they will walk him to his house. The Complainant responded by saying the Defendant and PW2 would go but not her, she will return to the school.
29. The Complainant states in evidence that whilst at the edge of the field the Defendant told them to walk bit further into the bush.
30. The Defendant actually told PW2 to stand where she was, whilst himself and Complainant to move further into the bush to a private location to have some conversation. In fact, they moved to some patches of cocoa trees and where some wild gingers were and both sat down and had their conversation. According to the Defendant, they were hugging each other for some time.
31. At some time later, a bell sounded and PW2 returned to the dormitory to attend church service. That was about 3pm. Little later Mr. Tumulima, PW5, the Security Officer attended both the Defendant and the Complainant.
32. The Complainant's version whilst in the bush is different. She told the court she was intending to return to the dormitory after PW2 but it was difficult for her. The Defendant held on strong to her hands and she could not able to free herself because she was not strong. In any event, at last both the Defendant and the Complainant went to the Defendant's house at Ombokiki Settlement. According to the Defendant, the Complainant agreed to go with him to his house.

Evidence related to the journey to Defendant's house.

33. The journey according to the Complainant was quite far and they have to climb hill. On their way according to her, the Defendant continued to hold her hand until they arrived at the Defendants house, at the same time she was crying. She attempted to free her hand but difficulty so she followed.
34. The Defendant's version of the journey they took is different. He narrated that after Tumulina (PW 5) left them, PW1 agreed with him to go to his house. They used the short cut road near Namo's house. The short cut road led to the main road. At the main road, the Complainant went first followed by the Defendant.

35. The road they used was the usual road all students used when they walked to Siota Provincial Secondary School. Along the way, upon reaching a particular house, they met Billy Piloa. They saw him repairing his brother's house. He saw them and smile. They talked for a while and the Defendant told him that they were going to his house.
36. Whilst talking to Billy, the Complainant was in front close by. Then they climbed up the hill and then they arrived at the Defendant's house. The Defendant describe the house as a lodge and did not have a room and the door was not properly constructed.
37. The distance from the school field to his house is about one kilometre or little more, it will take 15-20 minutes.
38. The Complainant's general version of the journey is that whilst walking the Defendant held her hand until they reached the house. They did not meet anybody on their way. The Defendant denies gripping the Complainant's hand and led her to his house. He also denies she was crying on their way.
39. It would have been the case for the Defendant if Billy Piloa is called as a witness to affirm the Defendant's contention, however he was not called to witness this particular part of the Defendant's evidence.

Evidence related to arrival at Defendant's house

40. The Complaint agreed the Defendant was living in a lodge. Inside the lodge, as you enter, there was no room just a bed to sleep. She said as soon as they arrived the Defendant told her to go into the house, but she refused, so he pulled her inside, then he locked the door and he gripped her hair, and tried to cut her hair but he couldn't find any scissors or knife.
41. The Defendant then told her to get rid of her clothes but she cried and stopped him. Then the Defendant attempted to pull her clothes out, but the Complainant cried and try to stop him as well. At last, he got her clothes out. Then he laid her down on the bed, and he laid on top of her and sucked her breasts, kissed her and leaked her vagina. Then he pushed his cock inside her vagina. She felt very pain so she cried. The Defendant pulled out his cock, kissed her again, and sucked her breasts. Then he pushed his cock inside her vagina again. When he pushed his cock inside the Complainant expressed the amount of pain she endured and told him exactly that.
42. Then he pushed his cock inside again. She cried because it was very painful, so he pulled out his cock. When he pulled his cock out, she saw blood on the bed and saw white stuff

on her vagina. The Defendant told her to go and wash herself behind the house. She washed herself then returned to the house, the time was about 6 or 6.30pm, and it was getting dark. When they went out of the house, he locked the door.

43. Upon her return, they went into the house and the Defendant locked the door again. After change, the Defendant told her to lie on the bed and asked her for fuck but she refused, she stopped him but he attempted to get rid of her clothes.
44. Eventually, he got her clothes out. By then the Defendant was lying on the bed, she sucked her breasts and kissed her and he sat on top of her and then pushed his cock inside her vagina, she felt very painful. She expressed that and told him she was tired but he did not adhere to.
45. Then he pulled his cock out and then pushed in again and had sexual intercourse with her. Then the Defendant said he was tired so he slept.
46. She did not feel well when the Defendant had sexual intercourse with her and hate what the Defendant did to her. When the Defendant slept, she tried to escape but because it was night and the fact, he locked the door. She said she cried for full night.
47. In the morning, the Defendant went to buy some noodles. He told her to lock the door, which she did. After he left, she opened the door and escaped. She went through the bushes and later came to the road and she follow the road down and came to a settlement.

Evidence encompassing return of Complainant

48. Then she came to a settlement close to Siota School, the place is Kamabulu where she met Esther (PW6) and Rose (PW3). Both women asked the Complainant where had she been and she told them that she had been with the Defendant since Friday.
49. PW6's observation was that she did not appear worrying, or even cry. She just walk straight like nothing had went wrong with her. And the Complainant did not mention anything to her.
50. Actually, PW3 took the Complainant to her house, from there she interviewed her. Her observation is She was worrying, sorry, cried and fear. She did not want to talk too much. She then asked if she had eaten anything and she showed her the colour of her tongue, that is noodle colour. The victim spent the night with PW3.

51. Further interrogation reveal it was the Defendant who took her to his house on Friday. The Complainant further told PW3 that she was afraid to go to school. She was afraid of the Teachers because she had breached school rules.
52. PW3 further stated that Complainant did not tell her what happened to her in the Defendant's house. During cross-examination by the Defendant's Counsel, the witness (PW3) in answering one of the question's said, that the Bursar came with the victim and left her beside the church before she went to Esther's house.
53. The Complainant finally returned to School on Sunday morning by accompanying Agnes Tani's husband.
54. The Defendant version as to how the Complainant returned from his house to Kamabulu village was not that she escaped him and went to that village.
55. On Saturday morning the Defendant woke up and went to his parents' house to obtain some food. He told the Complainant to wait. He did bring in some motu protein and 2 packets of megorine noodles. The Complainant refused to eat some food just megorine noodles.
56. After that the three boys arrived, they were coming from his parents' house. One of the boys was the Deputy Head boy at Siota Secondary School. The Complainant was there lying on the bed and could hear the conversations vividly. The Deputy Head boy told the Defendant to return the Complainant to school. He confirmed as well that the Complainant was in Defendant's house when they arrived.
57. It was the Defendant's plan to accompany the Complainant to Esther's house at Kamabubu village. They walked from his house, took a short cut road to Kamabulu village. The Defendant said he left her on the outskirts of Kamabubu village then returned to his house.

Decision

58. The Defendant was an employee of Central Province, posted at Siota Provincial Secondary School as a Bursar. And he was a married man.
59. On the morning of 7th April 2023, a Good Friday, the Defendant and friends were entertained by drinking some beers at his house. They later proceeded to the security house at Siota Secondary School to continue their sociality and drinking.

60. Good Friday in the Christian Calendar, or Easter weekend, often treated as holidays, and that is observed by all Christian including institutions.
61. Indeed, some of the School Children had left home for Easter break whilst others remain in the School.
62. On that day, the Defendant was no doubt influenced by alcohol. Upon citing the Complainant passing by, he was induced by her attraction. As a result, he approached her directly and expressed his desire to have a relationship with her. In other words, he likes her.
63. On the second meeting, the Defendant met the Complainant and PW2. He expressed his intention that both girls to walk him to his house, then PW2 would return. Those sentiments were denied by the Complainant. However, PW2 in her evidence stated that at the second meeting where she was present, heard the Defendant insisted that both girls accompanied him to his home. Then he told them to accompany him to the field, which they did.
64. Evidence to this point is obvious, that at the initial meetings the Complainant was fully aware that the Defendant liked her and had a motive to have sexual intercourse with her.
65. She may have shown some signs of reluctant and uninterested, however, the question to pause is, if she was reluctant and uninterested, why accompanied PW2 and the Defendant to the edge of the field and bushes at the eastern end of the playing ground for the third meeting. She would have expected and had acknowledge that she was a student and was obliged to avoid the motivated desire of the Defendant. She did not even take necessary steps to deter and avoid but flow with the direction. If she was sensitive and cautious enough, she would have not gone at all and would have refused.
66. The third meeting was under some cocoa trees and wild gingers. According to the Defendant, they were sitting down alone in the bushes. However, PW2 in her oral evidence in court said that the Defendant and the Complainant were sitting where some bushes are. As soon as the bell rang, she went back to attend church service in the afternoon. Therefore, both the Defendant and Complainant were sitting there alone.
67. The location where the Defendant and the Complainant met for the third time is well identified, and there is evidence establishing they were sitting down among those bushes.

They were not intending however to have conversation as the complainant would like to portray.

68. What actually occurred among the bushes were in contention. The Defendant said they were sitting there alone. PW2 had left. They were close to each other and were hugging.
69. The Complainant upon seeing PW5 moved out and hid herself behind some wild gingers or bushes. That was confirmed by PW5.
70. The evidence of both sitting together among some wild gingers or bushes is over whiningly true. The evidence of PW2 has corroborated that of the Defendant and PW5. By moving out and hid herself upon seeing PW5 affirms the truth that both were sitting together and were telling stories.
71. Whatever activities gone behind the bushes are convincingly truth according to the Defendants version of evidence. The Complainant cannot be granted any credibility. Her evidence is volatile and she seems to be hiding the truth. I can understand the pressure is on her to retrieve the dignity she had lost, bearing in mind the status of her education and parental expectation and the laughing stock of the aftermath.
72. From all the evidence, so far, as narrated from the first meeting to the third meeting, the issue of sitting close to each other among wild gingers and bushes signify that the complainant is a willing party to go with the Defendant, even to the extent to his house. The fact that she had hidden herself when PW5 attended to them implicated her wish to remain with the Defendant among those bushes.
73. According to PW5, they were there for about 1 ½ hours before another person and himself went to the spot to check on them. Being together engaging in conversation alone, hidden from public eye, means one thing, the Complainant had intention to stay with the defendant in that environment and even willing to go with him to his house.
74. The status and analysis of evidence so far has affected the evidence that connects the journey both the defendant and the complainant travel to the defendant's house. The important factor is whether the defendant gripped the hand of the complainant and led her to his house.
75. The Defendant denies it, and the person he mentioned they met on the way was not called as a witness. Would the Complainant be believed then? To immediately jumped into

conclusion would be unethical. Therefore, I need to examine the circumstances surrounding the journey they took.

76. Actually, as evidence reveal, the journey took one hour, through bushes and bush paths. Would it be possible for the Defendant to grip hold of complainant's hand and led her through such road not forgetting the windings and the hill?
77. Just because the witness is not call to give evidence, will not harm the veracity of the Defendant's evidence. It could be possible but the fear is, as soon as both sighted the witness, the defendant released his hand and hence the value of that witness evidence can be compromised. However, If the gripping is as such to the extent tantamount to some hash force, then why the complainant did not shout or make any noise to attract others. If the gripping is light then it will like two couples holding hands and walking along the way.
78. Again, when recapping back the conclusion this court has drawn, in my view the complainant was a willing partner to accompany the defendant to his house. Therefore, any gripping to whatever extent as the Complainant portrayed is another creation that warrants no credibility, her evidence is not acceptable.
79. The evidence related to the arrival of both at the defendant's house, how the door was opened, how they entered in, and their engagement in sexual intercourse on those two occasions are in conflict.
80. One thing for sure, that the defendant admitted having sexual intercourse with the Defendant on two occasions inside his house during their stay. The only issue is whether the complainant has consented to, or that the Defendant was aware that the Complainant did not consent and hence reckless as to her consent.
81. The conclusion has been drawn, that the Complainant is a willing party right from the start, consented by her action that she will accompany the Defendant to his house. On the outset she was well versed that the Defendant liked her and what normally happens when one accepts in words or by action, responding positively to sexual approach, expected sexual intercourse was the ultimate finality. She knew that by accompanying the Defendant to his house and spending a night with him; sexual intercourse was definitely anticipated. Both agreed to come along way and by having sexual intercourse was the ultimate reason for being there and spending one night together.
82. However, I noted the contents of credibility of the Complainant's evidence as submitted by the crown in paragraph 25 and 26 of her written submissions. Those contents summed up

the entire crown case. This case contains facts and evidence that are contrary to each other. The court can only accept one set of facts and evidence but not both.

83. Therefore, I think I have succinctly deal with the evidence so far, evidence that both parties had submitted to the court through witness evidence and submissions.
84. It is fit therefore, in my respectable view, to accept the defence version of evidence considering the issue of sexual intercourse was not in issue. However, the circumstances surrounding the act of sexual intercourse has been analysed and a conclusion has been drawn. That sexual intercourse was done by consent on both occasions.

Further assessment of evidence

85. What other evidence is available to support my conclusion? The next day being Sunday 8th April 2023. Early in the morning as soon as the defendant went out of the house to get more food, the Complainant said she escaped from the house. That evidence was denied by the defendant. His side of the story was that he went to his parent's house and got some food and two packets of noodle. On arrival the complainant did not like to eat some food but just noodles.
86. When the Defendant arrived at Kamabulu village she first met PW6 (Esther Kila) outside of her house raking. Then little later Roselyn (PW3) arrived at PW6's house and she saw the complainant. She asked the Complainant have you eaten something and she answered megorine.
87. If the complainant escaped immediately after the defendant left to his parent's house, she should not have eaten any megorine at all; because the defendant would have arrived after she left. The real fact is that she was present in the house when the defendant arrived, so she ate one of the megorine noodles according to the defendant's evidence in court.
88. So, it is not difficult to identify that the Complainant is not telling the truth. As a matter of fact, she is conflicting in her own stories. Not only that, but the worst scenario reveals that Roselyn's evidence is in support of the Defendant's case and evidence.
89. Further still, by escaping the Defendant's house early in the morning would mean she travelled or walked to Kamabulu Village by her own. Sadly, to say, when Roselyn Kela was cross examined by the defence counsel about how she come to Kamabulu village, the answer the witness gave is that the complainant told her that the bursar accompanied her

and left her beside the Church. That evidence has further weakened the complainant's story to zero. No reasonable tribunal would accept that she escaped and then in the end she affirmed she was accompanied by the defendant to the Church which is a piece of evidence that support the defendant's story.

90. On the issue of escape on her return, the Complainant's evidence does not warrant any credibility at all. The evidence of Roselyn is exactly supporting the defence case, not the prosecution case.
91. On the issue of proof of the act of rape, PW6 Esther Kila was cross-examined as to the general appearance of the complainant when she first saw her and met her in her area. She told the court; her appearance was good. Her hair was not disturbed and rugged. She walked well without any pain from the vagina. She was not shaking, fear or depressed or even afraid.
92. PW6's observation is different from PW3. PW3 told the court that the Complainant appeared sorry, fear and she cried. The reason for being fear was exposed by herself that she feared of her teachers. Obviously, that could be true because she broke the school rules. The words sorry and cried cannot be separated from fear. She was sorry and cried because she would be sacked from school and her privilege would be deprived of her. Further reason could be when her parents will learn about what she did they would be very angry and furious. Her body languages of fear, cry and sorry does not mean that she was raped or that a crime was committed on her or that she was a party to a crime. If that was the sole reason for her body languages, she would have told PW3 that she was raped. In this case nothing of that nature was reported to PW3, or even PW6. This is one of the crucial issues in sexual offences which for no reason the complainant had concealed.

Medical report

93. The next issue is, has the medical report contribute or support the charge as evidence, which manifest grazes at both sides of the labia minora; which are crutches. In submission the Crown Counsel defines grazes as scratches on the vagina bracket "break of skin". In the Oxford Dictionary, 3rd Edition 2012, the word graze means touch lightly in passing or move with a light passing contact. It may be a break of skin but in my opinion is minor. If minor, one possibility is that sexual intercourse was consented to.
94. In this case I am dealing with a victim of sexual assault; she was 16 years old when the assaults took place. If the defendant had penetrated his penis into the complainant 's

vagina by thrash or hard push or force because of no consent or reckless about whether she consent or not, then the injuries sustained would have been serious, extensive and fatal.

95. In my opinion, the Doctor's report on sexual activity indulged by both parties were done after the meeting of their minds. In other words, the complainant had consented to.
96. All the evidence related to the first meeting until they entered the Defendant house has been carefully analysed in the previous paragraphs in this judgment and I have concluded in above paragraphs. The Doctor's report is not capable enough to deter my conclusion as above.

Instant reporting

97. On the issue of instant reporting of the sexual assault or rape, by the Complainant, the law refers to such as fresh complaint. The principle is that to constitute a fresh complaint a complainant does not necessarily have to complain, but may simply say what occurred – see R v Robertson, Ex Part AG ⁽²⁾
98. Generally, it should not be made as a consequence of the complainant being prompted by leading question or suggestive in nature, as it should have been made voluntary and spontaneous – see The State v Stuart Hamilton Merriam ⁽³⁾.
99. Evidence of fresh complaint is not evident to corroboration because it is based on what the Complainant says and not on material evidence independent of the evidence of the Complainant – see Peter Townsend v George Oika.⁴
100. The fact that no fresh complainant has made is not evidence of consent – see State v Hamilton Olore⁽⁵⁾
101. To be admissible a fresh complaint must be made at the earliest opportunity, according to the circumstances of the case – see R v Cumanings.⁽⁶⁾
102. In the current case the first person the complainant met was PW6. She did not complain to her that she was raped by the Defendant, not necessary she had to make a complaint to

² (1991) 1 Q&R 262; (1990) 10 QLR23

³ (1994) PNGLR 104

⁴ (1981) PNGLR 12

⁵ *ibid* (2)

⁶ (1948) 1 All ER 551

PW6 that the Defendant had sexual intercourse with her without her consent but just tell PW6 frankly.

103. When the complainant moved to PW3's house she expressed her fear and cried but did not tell PW3 that the defendant had raped her. The Complainant in her own evidence and during cross examination admitted she did not tell her mother either directly of what had happened to her because she was ashamed to do so. She only told her that the defendant pulled her and led her into his house and showed his bed to her.
104. The fact that the complainant has failed to tell PW6, instantly as the first person she met on Saturday morning the following day, even failed to tell PW3, the second person she met, and her mother that she was raped, does not mean she consented to rape but goes to the credibility of her evidence in court.
105. For such evidence to be admitted, the complaint must be made at the earliest opportunity obliged with the circumstance of the case. This was not done at the earliest opportunity. This further weakens the crown case.

Conclusion

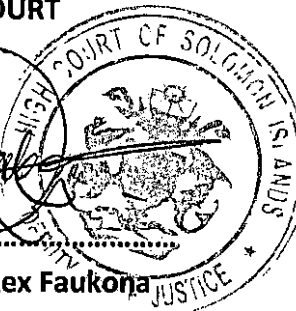
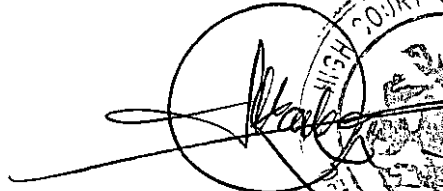
106. In conclusion, in any criminal prosecution, the onus of proving guilt is vested upon the prosecution. Any slight doubt in the prosecution case will render an acquittal for the defendant.
107. In this case the issue of consent before sexual intercourse is the only element to proof. The complainant a student girl of 16 years was called as principal witness, with circumstantial evidence from other witnesses.
108. Their evidence have been analysed in the above paragraphs. What she narrated in her evidence supported by circumstantial evidence are not convincing, but left doubts in my mind.
109. From the stages when both first met to the house of the Defendant, and returned on the next day and met the first two persons, as I alluded to in my assessment of evidence, do not assist the crown to proof its case on the required standard, proof beyond reasonable doubt.

110. In fact, the entire evidence of the crown case to prove non-consensual sexual intercourse lacks weight and credibility. I must find the Defendant not guilty and acquit him of the charges of rape accordingly.

ORDER

1. The Defendant Selwyn Alfred is found not guilty on both charges and therefore acquitted of the charges of rape.

THE COURT



The seal of the High Court of Solomon Islands is circular, featuring a central emblem with a crown and two figures. The text 'HIGH COURT OF SOLOMON ISLANDS' is inscribed around the perimeter, and 'JUSTICE' is written at the bottom. A horizontal dotted line is positioned below the seal.

Hon. Justice Rex Faukonga
Deputy Chief Justice