

IN THE COURT OF APPEAL, FIJI
ON APPEAL FROM THE HIGH COURT OF FIJI

CRIMINAL APPEAL NO. AAU 0069 OF 2016
(High Court Action No: HAC 47 of 2011 Ltk)

BETWEEN : ANANAIASA SORO
Appellant

AND : THE STATE
Respondent

Coram : Chandra, RJA

Counsel : Ms S Nasedra for the Appellant
Mr S Babitu for the Respondent

Date of Hearing : 25 April, 2019

Date of Ruling : 14 June, 2019

RULING

- [1] The Appellant was charged with one count of rape contrary to section 207(1) and (2)(a) of the Crimes Act, 2009.
- [2] After trial, the Appellant was convicted when the learned Trial Judge agreed with the unanimous opinion of guilt brought in by the Assessors.

- [3] The Appellant was sentenced on 12th May 2016 to a term of 11 years imprisonment with a non-parole period of 8 years imprisonment.
- [4] The Appellant was alleged to have had carnal knowledge of the victim who was a cousin of the Appellant aged 14 years at the time of offending. The Appellant had pleaded not guilty and took up the defence of consent. The offending had taken place on the 15th of December 2010 and the complaint had been made in February 2011 on being questioned by the victim's step-mother.
- [5] The Appellant filed a timely notice of appeal against conviction and sentence but did not pursue the ground of appeal against sentence. The ground of appeal against conviction is as follows:
- “That the Learned Trial Judge erred in law and fact when he failed to properly consider the issue of delayed reporting of the complaint thus questioning the credibility of the complainant and the veracity of her complaint.”*
- [6] The alleged offence had been on 15th December 2010 and the victim had complained to her step-mother in February 2011 on being questioned. The step-mother in her evidence in Court had stated that she only complained to the police after she questioned the victim about it and that too after she had heard from her husband's sister of the victim's involvement with the Appellant. At paragraph [32] of the summing up the learned Judge had set out the victim's evidence to the effect that her step-mother had questioned her because she had noticed some physical change in her body.
- [7] The version of the victim and her step-mother regarding the complaint seem to be at variance as regards to why the step-mother had questioned the victim. At paragraphs [39] and [40] the step-mother's evidence has been presented to the Assessors which showed that position.
- [8] The Appellant gave evidence on his behalf and led the evidence of his wife and son. The evidence of the Appellant and his son and the evidence of the complainant were at variance regarding the room where the offending had taken place.

- [8] The Assessors brought a unanimous opinion regarding the guilt of the Appellant which would imply that the evidence of the defence had not created a doubt in the prosecution case and that they would have believed the evidence of the complainant.
- [9] The learned trial Judge having concurred with the opinion of the Assessors gave a reasoned judgment where he concluded that the complainant's demeanor was consistent with her honesty. It is the complainant's evidence that the learned trial Judge had relied on to find the Appellant guilty.
- [10] In the above circumstances, the ground of appeal against conviction is not arguable.

Orders of Court:

Leave to appeal against conviction is refused.



A handwritten signature in black ink, appearing to read "Suresh Chandra", is written over a horizontal line.

Hon. Justice Suresh Chandra
RESIDENT JUSTICE OF APPEAL