

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 201 OF 2012S

STATE

VS

AISAKE KIVI

Counsels : **Mr. S. Nath and Ms. W. Elo for the State**
Mr. M. Fesaitu for Accused

Hearings : **14, 15 and 16 April, 2014**

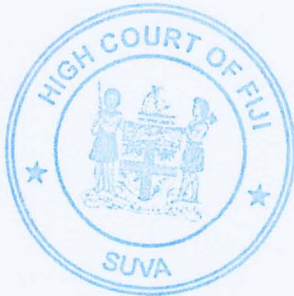
Summing Up : **17 April, 2014**

Judgment : **17 April, 2014**

JUDGMENT

1. The three assessors have unanimously found the accused guilty as charged on count no. 1, ie. raping the 13 ½ year old complainant on 26 May 2012, by inserting his two fingers into her vagina, without her consent and well knowing she was not consenting to the same, at the time.
2. The three assessors have obviously accepted the prosecution's version of events. This meant they have also accepted the complainant's evidence and her version of events.
3. They have rejected the accused's denials.
4. I have reviewed the evidence called in the trial and I have directed myself, in accordance with the Summing Up I gave the assessors today.

5. It was open to the assessors to reach the above conclusion on the evidence. I find that their decision was not perverse. I accept their opinion that the accused is guilty as charged on count no. 1.
6. Like the assessors, I accept the prosecution's version of events. I also accept the complainant's version of events. Her evidence was supported by the doctor's medical report and the accused's confession. I reject the accused's denial. He was not a credible witness.
7. I find the prosecution has proven the accused's guilt beyond reasonable doubt and I find him guilty as charged and convict him accordingly.
8. Assessors thanked and released.



Salesi Temo
JUDGE

Solicitor for the State : **Office of the Director of Public Prosecution, Suva.**
Solicitor for the Accused : **Legal Aid Commission, Suva.**