

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION.

HIGH COURT CASE NO. HAC 184 OF 2012
(consolidated with HAC 185/12 - 193/12)

BETWEEN

STATE

AND

1. ATAMA VEREVOU
2. MINIUSE RARASEA
3. EPINERI LATA

BEFORE THE HON. JUSTICE PAUL K. MADIGAN

Counsels: Mr. M. Vosawale with Mr. S. Nath and Ms. R.Uce for the State
Mr. K. Maisamoa for all accused

Dates of trial: 28 April to 5 May 2014

Date of judgment: 6 May 2014

JUDGMENT

Atama Verevou, Miniuse Rarasea and Epineri Lata you were charged with the following offences :

FIRST COUNT

(Representative Count)

Statement of Offence (a)

UNNATURAL OFFENCE: Contrary to Section 175 (a) of the Penal Code, Cap 17.

Particulars of Offence (b)

ATAMA VEREVOU, from the 1st day of January 2008 to the 31st day of December 2008 at Rakiraki village, Kadavu, in the Central Division, had carnal knowledge of SEMISI NACAGILEVU ULUINACEVA against the order of nature.

SECOND COUNT

Statement of Offence (a)

RAPE: Contrary to Section 207 (1) and (2) (b) and (3) of the Crimes Decree No. 44 of 2009.

Particulars of Offence (b)

ATAMA VEREVOU from the 1st of January to the 31st of December 2011 at Rakiraki Village, Kadavu, in the Central Division, penetrated the anus of NETANI BOLACIRI, a child under the age of 13 years, with a piece of stick.

THIRD COUNT

(Representative Count)

Statement of Offence (a)

RAPE: Contrary to Section 207 (1) and (2) (b) and (3) of the Crimes Decree No. 44 of 2009.

Particulars of Offence (b)

ATAMA VEREVOU FROM THE 1ST OF December 2011 to the 31st of January 2012 at Rakiraki Village, Kadavu, in the Central Division, penetrated the anus of NETANI BOLACIRI, a child under the age of 13 years, with his finger.

FOURTH COUNT

(Representative Count)

Statement of Offence (a)

RAPE : Contrary to Section 207 (1) and (2) (c) and (3) of the Crimes Decree No. 44 of 2009.

Particulars of Offence (b)

MINIUSE RARASEA, from the 5th day of September 2011 to the 2nd day of December 2011 at Rakiraki Village, Kadavu, in the Central Division, penetrated the mouth of **SEMISI NACAGILEVU ULUINACEVA** with his penis, a child under the age of 13 years.

FIFTH COUNT

(Representative Count)

Statement of Offence (a)

RAPE: Contrary to Section 207 (1) and (2) (a) and (3) of the Crimes Decree No. 44 of 2009.

Particulars of Offence (b)

EPINERI LATA, from the 1st day of February 2010 to the 17th day of April 2012 at Rakiraki Village, Kadavu, in the Central Division, had carnal knowledge of **SEMISI NACAGILEVU ULUINACEVA**, a child under the age of 13 years.

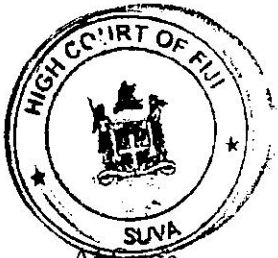
- [1] Atama Verevou, in the unanimous opinion of the three assessors you have been found guilty of count one, unnatural offence and guilty in counts two and three of the lesser charge of sexual assault. Miniuse Rarasea you have been found not guilty of rape and Epineri Lata you have also been found not guilty of rape.
- [2] The evidence against the first accused Atama Verevou is strong. Both child victims identified him as the person who assaulted them, Semisi saying he performed anal intercourse on him in 2008, and Netani saying that he had

used a stick to prod his anus but without penetration and used his finger to poke his anus again without penetration.

- [3] The boys' evidence was enforced by the first accused's interviews under caution in which he made frank admissions to the sodomy in 2008 and to the sexual assaults.
- [4] In respect of the first accused, I direct myself on my own summing up, and concur with the assessors and find him guilty of rape and guilty of two counts of sexual assault. The culpability of the second and third accused is far more problematical. In the light of the opinions of the assessors on them I have carefully reviewed the evidence and looked for anything that would cause me to have a reasonable doubt about it.
- [5] The first child witness (Semisi) said that "Epi", (the third accused) had asked him to suck his penis and then he put it in his anus. He said exactly the same thing about Miniuse (the second accused), saying that he had put his penis in his mouth for about 10 minutes. The second child spoke only of Atama the first accused.
- [6] Neither the second nor the third accused have made admissions that are before the Court and therefore any guilt of the second and third accused has to be attributed solely to the first witness Semisi. I do not need to look for corroboration of his evidence. Although young, Semisi was a very forthright and credible witness. He did not display the reluctance or reticence of the second witness and he was quite clear in the descriptions of the sexual abuse he suffered.
- [7] Despite the absence of admissions in caution interviews, I believe the child and I am prepared to find the second and third accused guilty on his evidence. I decline to follow the not guilty opinions of the assessors on the

second and third accused. I find the second and third accused guilty of counts 4 and 5 respectively and I convict them both of rape.

[8] That is the judgment of the Court.



At Suva
6 May 2014

A handwritten signature in black ink, appearing to read "P.K. Madigan".

P.K. Madigan
Judge