

IN THE HIGH COURT OF FIJI  
AT LAUTOKA  
CRIMINAL JURISDICTION  
CRIMINAL CASE NO.: HAC 31 OF 2014

STATE

-v-

BALBIR SINGH

Counsels : Mr. F. Lacanivalu for the State  
Ms. S. Ratu for the accused  
Date of Trial : 18 August 2014 to 20 August 2014  
Date of Summing Up : 20 August 2014  
Date of Judgment : 20 August 2014

(Name of the victim is suppressed. She is referred to as MS)

**JUDGMENT**

1. The Accused is charged under following count:

*Statement of Offence*

**RAPE**: Contrary to Section 207 (1) and (2) (a) of the Crimes Decree 2009.

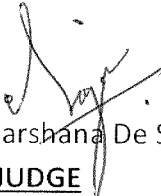
*Particulars of Offence*

**BALBIR SINGH** on the 09<sup>th</sup> of March 2014 at Sigatoka in the Western Division, had carnal knowledge of **MS**, a 7 year old girl.

2. The three assessors unanimously found accused Guilty of the count against him.
3. I direct myself in accordance with the law and the evidence which I discussed in my summing up to the assessors.

4. Considering the nature of the evidence before the court, I am convinced that the prosecution had proved the case beyond reasonable doubt.
5. Prosecution case was based on the evidence of the victim. She was 7 years old at the time of the incident. Accused is her step-uncle who was staying in her house for two years. Accused had inserted his penis into her vagina when she went to his room to watch video clips on his mobile phone. Her mother had seen this from a hole in the room. The mother gave evidence confirming her evidence. A prompt complaint was made on the same day. The doctor had observed redness around the vagina. Her vagina was open and gaping. The investigating officer confirmed that there is a crack in the wall and he could see the bed of the accused from the victim's mother's room.
6. The accused gave evidence and took up the position that nothing happened inside his room. He was falsely implicated as the victim's mother wanted him out of the house. The assessors have rejected the version of the accused.
7. I am satisfied that evidence is sufficient to establish the guilt of the accused beyond reasonable doubt.
8. In my view, the assessor's verdicts were not perverse. It was open for them to reach such conclusion on the evidence. I concur with the verdict of the assessors.
9. I find the accused Guilty as charged on the count of Rape contrary to Section 207 (1), (2) (a) of the Crimes Decree No. 44 of 2009, and convict him for the count against him.
10. This is the Judgment of the Court.



  
Sudharshana De Silva  
JUDGE

At Lautoka  
20<sup>th</sup> August 2014

Solicitors: Office of the Director of Public Prosecution  
Office of the Legal Aid Commission for the Accused