

IN THE HIGH COURT OF FIJI

AT LABASA

CRIMINAL JURISDICTION

CRIMINAL CASE NO: HAC 11 OF 2016

STATE

V

RAJNIL NAVIN CHANDRA

Counsels : Ms. A. Vavadakua for State
Mr. K. Ratule for Accused

Hearing : 21, 22 and 23 November, 2016

Summing Up : 24 November, 2016

Judgment : 24 November, 2016

JUDGMENT

- [1] The accused, **Rajnil Navin Chandra** is charged, contrary to section 207(1), (2) (a) for committing for Rape on Shivagni Krishna.
- [2] He pleaded not guilty to the count of Rape and the ensuing trial lasted for 4 days. The complainant, her mother and the medical officer who examined her have given evidence for the prosecution while the accused opted to offer evidence under oath.
- [3] At the conclusion of the evidence and after the directions given in the summing up, the three assessors unanimously found the accused guilty to the count of Rape.

- [4] I direct myself in accordance with the law and the evidence which I discussed in my summing up to the assessors.
- [5] Prosecution case was based primarily on the evidence of the 22 year old complainant. According to her, the accused is a person known to her. On the afternoon of 17th March 2016, she has helped her employer, the mother of the accused, with some kitchen work. In the evening, she got in to the back seat of the vehicle of the accused to get herself dropped at a nearby car wash in order to return home. The accused did not stop at the car wash and instead drove to his new house in Tuatua, ignoring the complainant's repeated requests to let her get off.
- [6] At his house, the vehicle was stopped and then the accused told the complainant that he wants to kiss her and also to have sex with her. She refused. Then the accused lifted her legs, forcibly removed her pants and inserted his penis into her vagina. When he noticed her bleeding, he gave her a piece of cloth to wipe. The complainant reported the incident to her mother soon after she returned home. Her mother then phoned the accused's mother and conveyed the accusation and also reported the matter to Police. The complainant was examined by the medical officer that night and noted a fresh laceration in her vagina with bleeding.
- [7] It was also revealed in evidence that the marriage of the complainant to her lover which was due to take place in December 2016 was put on hold due to this legal action.
- [8] The accused in his evidence admitted that he had penetrated her vagina with his penis but claimed that they were in a relationship; and the complainant, by her conduct of removing clothes, invited him to have sex with her, after he promised her that he would marry her.
- [9] In the summing up the assessors were directed to consider the issue of whether the prosecution has proved there was no consent or whether the accused was reckless about it. They were directed in the summing up to evaluate the probabilities of the version of events as presented by the parties. The inconsistencies of the prosecution and accused were also highlighted with suitable directions. The assessors have found the evidence of prosecution as truthful and reliable, as they unanimously found the accused guilty to the count of Rape and they have obviously rejected the position taken up by the accused in his evidence. It was a question of believing whom.
- [10] In my view, the assessor's opinion was not perverse. It was open for them to reach such a conclusion on the available evidence. I concur with the opinion of the assessors.
- [11] Considering the nature of all the evidence before the Court, it is my considered opinion that the prosecution has proved its case beyond a reasonable doubt by

adducing truthful and reliable evidence satisfying all elements of the offence of Rape.

[12] In the circumstances, I convict the accused, **Rajnil Navin Chandra**, to the count of Rape.

[13] This is the Judgment of the Court.



ACHALA WENGAPPULI



At Labasa

24 November, 2016

Solicitor for the State : Office of the Director of Public Prosecution, Labasa
Solicitor for the Accused : Office of Gibson and Company, Barrister & Solicitor,
Labasa