

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. HAC 53 of 2015

STATE

V

ILAISA CAKAU

Counsel: Ms W. Elo for the State
Mr A. Vakaloloma for the accused

Date of Trial : 18,19 April 2016

Date of Judgment: 19 April 2016

JUDGMENT

[1] The accused was charged with the following offence:

Statement of Offence

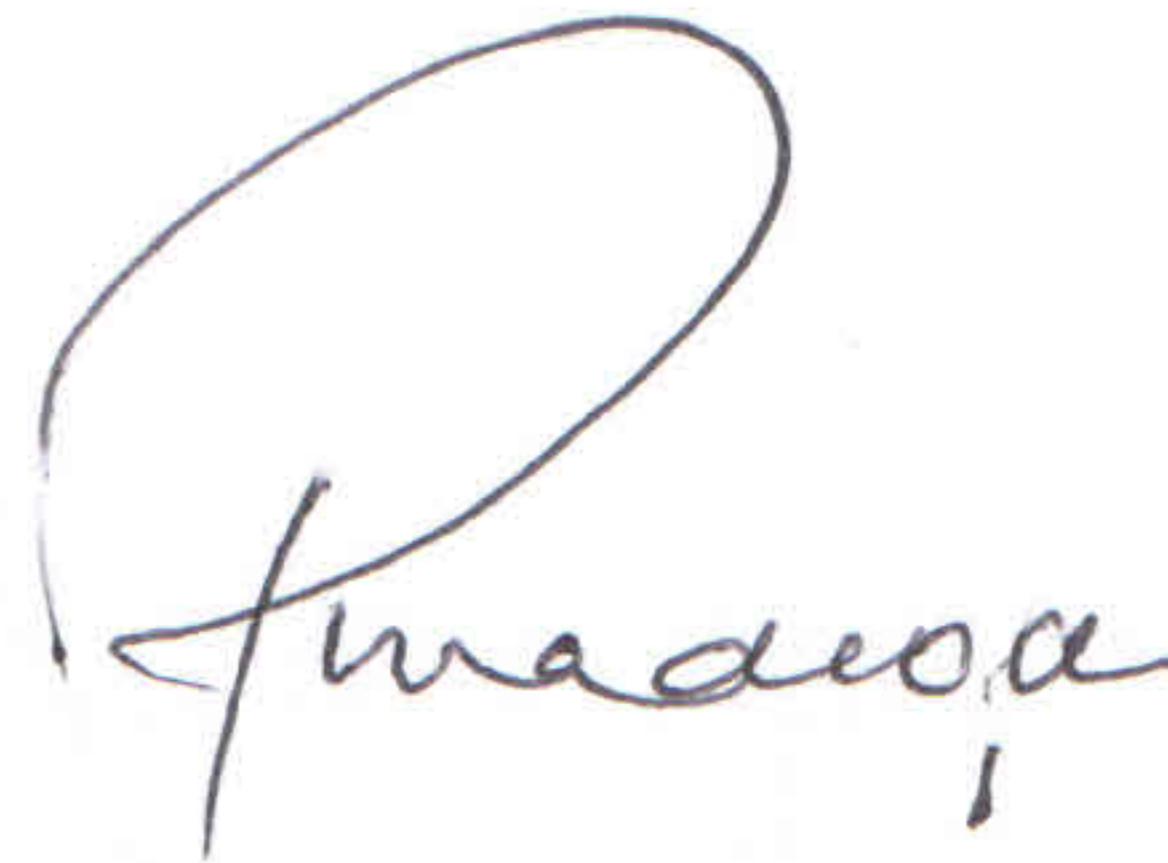
RAPE: Contrary to section 207(1) and 2(b) and (3) of the Crimes
Decree 44 of 2009

Particulars of Offence

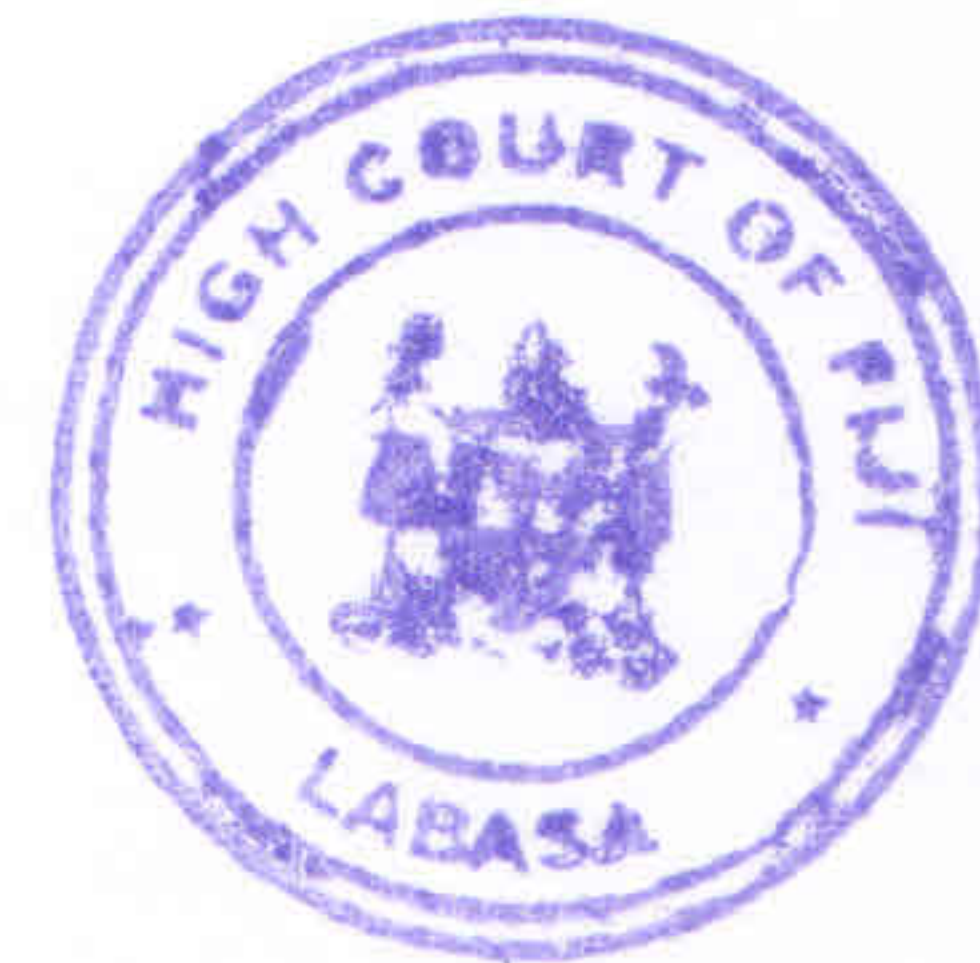
ILAISA CAKAU, between the 1st day of May 2014 and the 31st day of May, 2014 at Taveuni in the Northern Division, inserted his finger into the vagina of (name suppressed) an 11 year old girl.

- [2] After trial in this Court lasting two days he was found not guilty in the unanimous opinion of three assessors.
- [3] The evidence adduced by the State came from the complainant (now 12) and her mother.
- [4] The complainant whom I shall call Sally (not her real name) told the Court that when staying in the home of the accused and his wife on a long term basis, she was sexually assaulted while sleeping one night. She gave specific evidence of (and demonstrated) the accused using two fingers to penetrate her. She says that at the time she and the accused were alone in the house, the accused's wife having gone to Labasa for a meeting.
- [5] The complainant was subjected to rather vigorous cross examination by Defence Counsel but her evidence remained unshaken. As a 12 year old, relating events of an embarrassing and personal nature, she was shy reticent but convincing. I believed her evidence.
- [6] The accused himself gave evidence but called no witnesses. The Court found his evidence rather contrived and implausible. His evidence did nothing to make me doubt the evidence of the complainant.

- [7] Defence Counsel made much in his closing speech of the fact that there was a paucity of evidence with no evidence of medical examination and no Police evidence. Of course corroboration is not required in rape cases and it is difficult to understand what "Police" evidence would assist either side. The case must be judged on the evidence called.
- [8] I have no doubt whatsoever that the young girl was telling the truth and I therefore reject the opinions of the three assessors.
- [9] I find the accused guilty as charged and I convict him accordingly.
- [10] That is the judgment of the Court.



P.K. Madigan
Judge



At Labasa
19 April, 2016