

**IN THE HIGH COURT OF FIJI**  
**AT LAUTOKA**  
**CRIMINAL JURISDICTION**

**Criminal Case No.: HAC 53 of 2015**

**STATE**

**V**

**SAKARAIA QORO**

**Counsel** : Mr. A. Singh for the State.  
: Ms. N. Sharma and Ms. V. Narara [LAC] for  
the Accused.

**Dates of Hearing** : 21, 26 March, 2018  
**Closing Speeches** : 27 March, 2018  
**Date of Summing Up** : 28 March, 2018

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**JUDGMENT**

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*(The name of the complainant is suppressed she will be referred to as "MW").*

1. The Director of Public Prosecutions charged the accused by filing the following information:

**COUNT ONE**

*Statement of Offence*

**RAPE**: Contrary to section 207 (1) & (2) (a) of the Crimes Act No. 44 of 2009.

*Particulars of Offence*

**SAKARAIA QORO** on the 24<sup>th</sup> day of March, 2015 at Lautoka in the Western Division, penetrated the vagina of “**MW**” with his penis without the consent of the said “**MW**”.

2. The three assessors had returned with unanimous opinion that the accused was guilty as charged.
3. On the evidence before this court it was open to the assessors to reach such an opinion.
4. I adjourned overnight to consider my judgment. I direct myself in accordance with my summing up and the evidence adduced at trial.
5. The prosecution called four (4) witnesses while the accused remained silent and did not call any witness.
6. The complainant in the year 2015 was 15 years of age and a Form 3 student. On 24 March, 2015 at about 2pm the accused called the complainant on her mobile phone asking her to accompany him to town so that she could assist him in doing a research assignment for his daughter.
7. After seeking permission from her aunt Mereoni Raitala the complainant walked to the roadside where the accused was waiting for her. The complainant was walking in front and the accused was walking behind her, as the complainant was walking past the cassava patch the accused got hold of both her hands from behind and dragged her back to the cassava patch.
8. At the cassava patch, the accused pushed the complainant on the big grass thereafter he turned her by her chest so that she could face

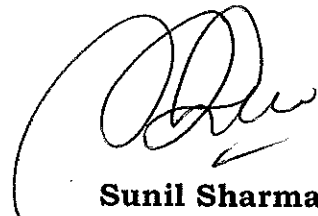
him. The accused then pressed her mouth whilst on his knees removed her panty and also pulled her skirt up to her stomach. The accused removed his  $\frac{3}{4}$  pants and lay on top of the complainant and then forced his erected penis into her vagina. The complainant had cried for help but no one was around to help.

9. The complainant managed to push the accused away, picked her panty and ran home, when she reached home she told her aunty everything the accused had done to her.
10. According to Mereoni Raitala the aunty of the complainant at about 3pm the complainant left home, when the complainant returned half an hour later she was crying. The witness asked the complainant the reason for crying and she was told that at the roadside the accused had grabbed her and dragged her to the cassava patch and did something bad to her. The witness observed that the complainant looked miserable and she could make out that the complainant had gone through something bad.
11. The Doctor who had examined the complainant on 25 March, 2015 was of the opinion that the complainant's hymen was not intact according to the Doctor the blood seen was recent and there was a cut on the right hand side of the hymen and a forceful penetration of the vagina by a penis could cause a cut to the hymen.
12. The Doctor confirmed her findings to be consistent with the forceful penetration by a penis.
13. The Investigating Officer visited the cassava patch where the alleged incident took place. She noticed that the cassava patch had big grass which had fallen at the spot of the alleged incident as pointed by the

complainant. The nearest house was about 40 to 50 meters away from the cassava patch.

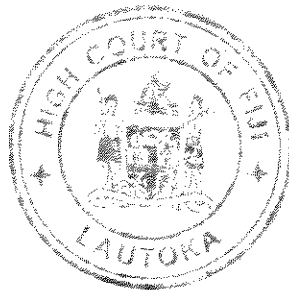
14. I accept the evidence of the complainant as truthful and reliable. Although the incident happened some three years ago the complainant was able to recall what had happened to her. The fact that the complainant had read her police statement before coming to court does not in any way affect the reliability of the complainant's evidence.
15. The complainant was forthright in her evidence and was able to withstand cross examination. I have no doubt in my mind that the complainant told the truth in court, her demeanour was consistent with her honesty. The incident was also promptly reported to Police.
16. Furthermore, the complainant had immediately informed her aunt about what the accused had done to her. Although the complainant did not give all the details of what the accused had done to her, however, she had disclosed material and relevant information to her aunt. This aspect of the complainant's evidence further strengthens her consistency and credibility. I also accept that the complainant had shouted for help although it was not mentioned in her police statement.
17. I also accept that the aunty of the complainant told the truth in court when she described the appearance of the complainant and her observations of the complainant when she came home half an hour after leaving home. I accept the evidence of the complainant's aunt that the complainant had told her what the accused had done.
18. The Doctor confirmed her specific medical findings in the Medical Form to be consistent with forceful penetration by a penis.

19. I am satisfied beyond reasonable doubt that the accused on 24<sup>th</sup> March, 2015 had penetrated the vagina of the complainant with his penis without her consent.
20. I accept that the accused knew or believed that the complainant was not consenting or didn't care if she was not consenting at the time.
21. I agree with the unanimous opinion of the assessors that the accused was guilty of one count of rape as charged.
22. In view of the above, I find the accused guilty as charged.
23. I therefore convict the accused as charged.
24. This is the Judgment of the Court.

  
**Sunil Sharma**  
**Judge**

**At Lautoka**

29 March, 2018



**Solicitors**

**Office of the Director of Public Prosecutions for the State.**

**Office of the Legal Aid Commission for the Accused.**