

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

**Criminal Case No. HAC 41 of 2016**

**STATE**

**v**

**MOHAMMED RASHEED**

**Counsels:** Ms. A. Vavadakua for the State  
Mr. A. Sen for the Accused

**Dates of Hearing:** 23, 24 July 2018  
**Date of Ruling:** 24 July 2018

**RULING**  
**(VOIRE DIRE)**

1. The State seeks to adduce into evidence a record of interview made under caution with the accused on the 19<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> June 2015 at the Labasa Police Station.
2. The accused by his counsel objects to the production of same on the grounds that it was obtained as a result of assaults at the hands of Police and threat of further assault if he did not cooperate.
3. I am aware of the test to apply to such application in that I must find that the interview was conducted without fear or

inducements offered; in a fair manner without oppression and in accordance with the accused's constitutional rights.

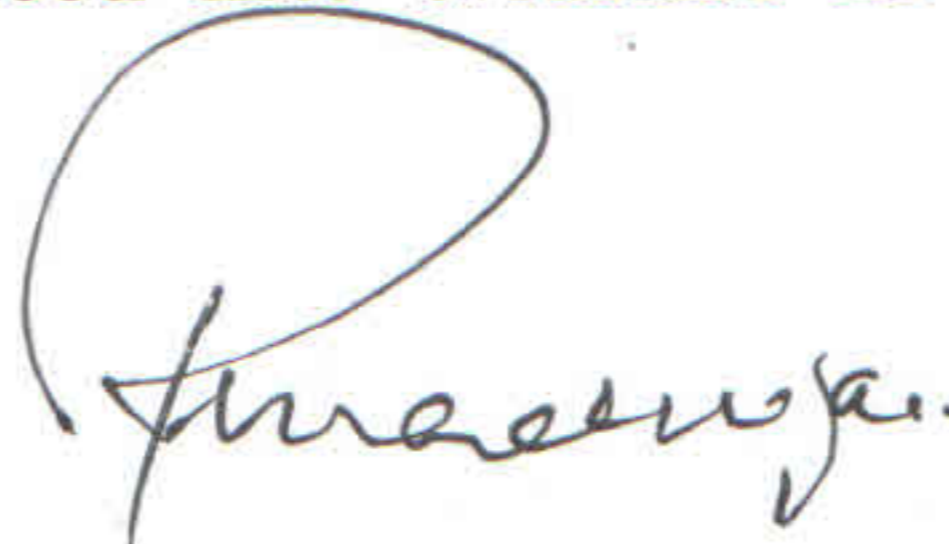
4. Were I to find that there was an assault on the accused then that would well colour his willingness to answer the questions in the interview and the whole record would be inadmissible.
5. The evidence for the State was adduced by 6 Police witnesses who spoke to the arrest of the accused at his home and of his treatment at the Labasa Police Station where he was processed and interviewed.
6. The accused was arrested at his home in Tabia in the afternoon of the 19<sup>th</sup> June 2015. It was said that he was told the reasons for the arrest and he willingly went with the Police back to the station for further enquiries. At the station he was processed and taken to the Crime Office to be interviewed that afternoon and for the two days thereafter.
7. On the second day, he was taken to various places where he pointed out locations where sexual intercourse had taken place.
8. The Police all denied that the accused was ever assaulted; they denied inappropriate treatment of the accused and they told the Court that he was afforded all of his Constitutional rights and treated fairly.
9. The accused gave evidence on this issue. He said that on arrest he co-operated with the Police but on the journey to the Labasa Police station, he was sworn at by the Officer who had arrested him. At the beginning of the interview he was told if he didn't "say the right things", he would be assaulted. It was Ramadan and he was fasting. On the second day the interviewing officer

punched him in the ribs and was told if he did not admit the offence he would be made to do 100 push-ups. He was in fact made to do that, but he could only manage 50. He was made to feel bad. He was paining in his legs and ribs. He wasn't allowed to see a lawyer or religious counselor, although he did admit to the Court that he didn't ask to see either.

10. He told the Court that the answers written in the record are not true. He told those lies because of threats made to him and because of the assault.

### **Analysis**

11. The Police gave confident and consistent evidence on which the Court relies. I did not believe the accused when he said he lied in the interview because of threats or fear of assault. The record shows the frank answers of a suspect freely admitting to the sexual activity he was accused of . Were he telling lies as he claimed, he would not have gone into the great detail of the sexual activity recorded in the statement.
12. The Court has no hesitation in finding that the State has proved beyond reasonable doubt that the interview was conducted fairly and with the willing participation of the accused.
13. The record may be adduced into evidence in the trial on the general issue.



**P.K. Madigan**  
**Judge**



At Labasa  
24 July 2018