

IN THE HIGH COURT OF FIJI AT LABASA

CASE NO: HAC. 74 of 2017

[CRIMINAL JURISDICTION]

STATE

V

COMEKE KATA DAUGUNU

Counsel : Ms. U. Tamanikaiyaro for State
Ms. K. Boseiwaqa for Accused

Hearing on : 11 - 14 September 2018

Summing up on : 14 September 2018

Judgment on : 14 September 2018

[The complainant's name is suppressed. She will be referred to as "MV".]

JUDGMENT

1. The accused is charged with the following offence;

Statement of Offence

Rape: Contrary to section 207(1) and (2)(b) of the Crimes Act 2009.

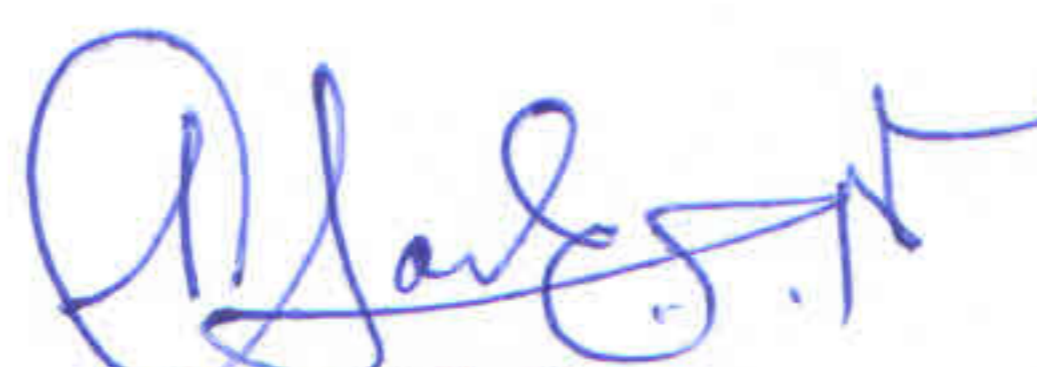
Particulars of Offence

COMEKE KATA DAUGUNU, on the 22nd of October 2017, at Labasa in the Northern Division, penetrated the vagina of MV, with a bottle, without her consent.

2. The assessors have returned with the unanimous opinion that the accused is not guilty of the above offence.

3. I direct myself in accordance with the summing up delivered to the assessors this morning and the evidence adduced during the trial.
4. The complainant alleges that the accused penetrated the lid side of a bottle into her vagina without her consent. The accused says that he did not penetrate the complainant's vagina with a bottle but he had consensual sexual intercourse with the complainant. The accused further says that the complainant is making a false allegation after rumours were spread that the complainant had slept with him on the morning in question.
5. Having considered all the evidence led in this case including the evidence for the defence and the demeanour and deportment of the complainant when she gave evidence it is clear that the complainant did not come out with the full story as to what happened on that morning in question and certain evidence given by her was improbable. I do not find the account given by the complainant to be reliable.
6. In the circumstances, I find that the evidence adduced by the prosecution does not establish the offence the accused is charged with, beyond reasonable doubt; and I agree with the unanimous opinion of the assessors that the accused is not guilty of the offence he is charged with.
7. I find the accused not guilty and he is hereby acquitted accordingly.




Vinsent S. Perera
JUDGE

Solicitors;

Office of the Director of Public Prosecutions for State.
Legal Aid Commission for Accused.