

IN THE HIGH COURT OF FIJI AT SUVA

CASE NO: HAC. 148 of 2016

[CRIMINAL JURISDICTION]

STATE

V

SANGEETA DEVI

Counsel : Ms. W. Elo for State
Mr. M. Yunus for Accused

Hearing on : 20 - 21 September 2018

Summing up on : 21 September 2018

Judgment on : 21 September 2018

JUDGMENT

1. The accused is charged with the following offence;

Statement of Offence

Murder: contrary to section 237 of the Crimes Decree 2009.

Particulars of Offence

SANGEETA DEVI on the 9th of January, 2016 at Nasinu in the Central Division murdered a new born baby boy.

2. The assessors returned with the unanimous opinion that the accused is not guilty of murder as charged but guilty of the offence of manslaughter they were directed to consider as an alternative count.

3. I direct myself in accordance with the summing up delivered to the assessors and the evidence adduced during the trial.
4. The prosecution led the evidence of three witnesses who were medical doctors and the accused chose to remain silent.
5. Given the evidence led in this case, I find that it is established beyond reasonable doubt that the accused delivered a baby at her home and the baby died as a result of excessive blood loss. The defence version that the accused was not aware that she was pregnant throughout her pregnancy and especially that she did not know that she delivered the baby is improbable given the clear evidence of PW 1 and PW 2 which I accept.
6. However, given the evidence presented by the prosecution, I am not convinced beyond reasonable doubt that the accused had the intention to cause or was reckless as to causing the death of her baby. I am in fact satisfied beyond reasonable doubt that the accused was reckless as to causing serious harm to the baby by her conduct of not seeking medical assistance for her delivery.
7. In the circumstances, I agree with the unanimous opinion of the assessors. I find the accused not guilty of murder as charged. I find her guilty of the offence of manslaughter under section 239 of the Crimes Act 2009 and I hereby convict her accordingly.



A handwritten signature in blue ink, appearing to read "Vinsent S. Perera".

Vinsent S. Perera

JUDGE

Solicitors:

Office of the Director of Public Prosecutions for State.
MY Law, Ba for Accused.