

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

**Criminal Case No.: HAC 145 of 2016**

**STATE**

**V**

**BILL JACKSON**

**Counsel** : Mr. T. Tuenuku and Mr. R. Chand for the State.  
: Ms. V. Diroiroy [LAC] for the Accused.

**Dates of Hearing** : 10, 11, 12 June, 2019  
**Closing Speeches** : 12 June, 2019  
**Date of Summing Up** : 13 June, 2019  
**Date of Judgment** : 14 June, 2019

---

**JUDGMENT**

---

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

**First Count**  
**(Representative count)**  
*Statement of Offence*

**SEXUAL ASSAULT**: Contrary to section 210 (1) (a) of the Crimes Act of 2009.

*Particulars of Offence*

**BILL JACKSON**, between the 11<sup>th</sup> day of July 2016 and the 12<sup>th</sup> day of July, 2016 at Mataniqara, Ba, in the Western Division, had unlawfully and indecently assaulted **VACISEVA WATI**.

**Second Count**  
**(Representative count)**  
*Statement of Offence*

**RAPE**: Contrary to section 207 (1) and (2) (a) of the Crimes Act of 2009.

*Particulars of Offence*

**BILL JACKSON**, between the 11<sup>th</sup> day of July, 2016 and the 12<sup>th</sup> day of July, 2016 at Mataniqara, Ba, in the Western Division had carnal knowledge of **VACISEVA WATI**, without her consent.

2. The three assessors had returned with a unanimous opinion that the accused was guilty of one representative count of sexual assault and one representative count of rape.
3. I adjourn overnight to consider my judgment. I direct myself in accordance with the summing up and the evidence adduced in trial.
4. The prosecution called four (4) witnesses and the accused exercised his right to silence and did not call any witness.
5. The complainant Vaciseva Wati informed the court, on 11<sup>th</sup> July, 2016 she travelled by bus from Nausori reaching Ba Town a little after 7pm, and from there the complainant went to Vadravadra Village in a carrier. After getting off the carrier while walking home the complainant saw the accused drinking alcohol with some others outside a shop.
6. The complainant knows the accused since they were neighbours, when the accused saw her he told her to wait so that he can accompany her home. After waiting for about 5 minutes, both the complainant and the accused took a walk following a tramline and a gravel road. On the way both were having a conversation, as they went near the house of the accused he asked the complainant to accompany him to his house for a drink. The complainant refused, saying she was going home.

7. At this time, the accused started pulling her t-shirt, since the complainant was unable to push him away, she started to scream for help. The accused then punched her mouth and tightly held the collar of her t-shirt and forcefully took her to his house. During the struggle the zip of the complainant's knapsack bag broke and her clothes fell on the road.
8. As a result of the punch, the complainant kept quiet, when she reached the house of the accused she thought of escaping so she told the accused that she wanted to use the washroom. After using the washroom, the complainant ran out of the house, the accused also followed her towards the neighbour's house. While running the complainant fell towards the fence of the neighbour's house she screamed at the top of her voice and again she was punched by the accused. The accused then held the complainant's t-shirt collar and brought her to his house for the second time.
9. The complainant could not run away, because the accused had forcefully held the collar of her t-shirt, when they reached the house of the accused the complainant was frightened. The accused gave her the key to open his house, since the complainant did not know what to do she took the key and opened the door.
10. Inside the house, the accused switched on the light, after a while he switched it off and started kissing her. The complainant turned her face away, the accused then removed her t-shirt, her bra and then told her to lie down. The complainant did not scream because she was frightened the accused would punch her or even kill her. The complainant laid down face up on the mat the accused then removed her pants and started licking her vagina for 10 minutes.
11. The complainant did not like what the accused was doing to her, after this the accused inserted his penis into the complainant's vagina. At this time, the complainant hated the accused for what he was doing to her the accused had sexual intercourse with her for about 20 minutes.

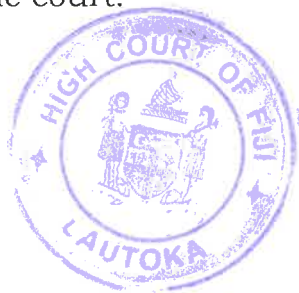
12. When the accused had finished, he stood up and walked around the house. After a while, the accused came and sat beside the complainant and once again started kissing her mouth and then went on to lick her vagina and then inserted his penis into her vagina.
13. The complainant pretended to sleep, after a while the accused fell asleep when the accused was snoring the complainant after wearing her clothes left the house of the accused without closing the door and started running towards her house. At home, the complainant told her boyfriend Tevita Buto what the accused had done to her.
14. The next morning, the accused and his wife came to her house the accused sought forgiveness but the complainant refused to accept his forgiveness. The matter was reported to the police.
15. Tevita Buto informed the court that he was in a relationship with the complainant, on 11<sup>th</sup> July, 2016 he was working in Lautoka when he received a call from the complainant saying that she will be coming home.
16. The witness arrived home from Lautoka at around midnight after having his shower, he was getting ready to have his dinner when he heard someone pushing the door. When he opened the door, he saw the complainant.
17. The complainant was crying and looked scared the witness told her to calm down and asked her what happened. The complainant told the witness when she arrived at the village and as she was walking home the accused asked her for them to go home together. When they reached the junction to the house of the accused, the accused requested her to go to his house. The complainant refused, after this the accused pulled her and punched her both were pulling each other up to the accused's house.
18. The complainant wanted to run away from the accused house and again she was punched since she felt weak she did not do anything thereafter the complainant told him that the accused had raped her. The witness told his

parents about what the complainant told him. In the morning the accused came and asked for forgiveness, saying he did not know what had happened the previous night because he was drunk.

19. Marisilina Liku the mother of Tevita Buto, informed the court on 12<sup>th</sup> July, 2016 at about 2am the witness was awoken by her son Tevita who told her that the accused had raped the complainant. The witness and her husband went to the house of the accused as the witness entered the road leading to the accused house, she saw the clothes of the complainant scattered on the road which she collected.
20. When the witness reached the house of the accused, she noticed that the door was open and the accused was sleeping in his underwear only. When the witness confronted the accused, he denied raping the complainant. At about 6am the accused came to her house with his wife, he asked for forgiveness and said that he did not rape the complainant. The witness did not accept the apology.
21. Akashni Lata Narayan the neighbour of the accused informed the court on 11<sup>th</sup> July, 2016 at about 8pm she was at home watching a movie with her children when all of a sudden she heard a yell of a girl once only coming from the house of the accused. The yell was loud enough for her to hear since the volume of the TV was low, she thought it was the daughter of the accused who was yelling. The accused house is near to her house and she calls the accused brother.
22. The accused on the other hand, denies committing any of the offences as alleged. The defence contention is that the incidents as narrated by the complainant did not happen, the accused had not accompanied the complainant as stated by the complainant. In respect of the accused seeking forgiveness he denies going to the house of the complainant as stated by the prosecution witnesses.

23. I accept the evidence of all the prosecution witnesses as truthful and reliable. The complainant was able to give an account of what the accused had done to her in a concise and coherent manner. The complainant was able to withstand cross examination and was not discredited she was also straight forward and forthright in her answers as well.
24. I have no doubt in my mind that the complainant told the truth in court her demeanour was consistent with her honesty.
25. I accept the complainant told Tevita that she had been raped by the accused as soon as she went home, considering what the complainant had gone through it is only natural that the complainant did not tell Tevita early in the morning every detail of the sexual conduct by the accused such as the licking of her vagina and the sexual intercourse twice that night. However, the complainant was able to and did in fact disclose material and relevant information about the unlawful conduct of the accused.
26. This court also accepts that the accused had sought forgiveness from the complainant and her family for what he had done to her the previous night. There was no need for the accused to seek forgiveness if he had not done anything wrong to the complainant.
27. I accept that Marisilina Liku had collected the clothes of the complainant which had fallen on the road leading to the house of the accused from the complainant's bag during her struggle with the accused.
28. The defence of denial is unbelievable and improbable considering the totality of the evidence, in the circumstances, this court rejects this defence as unreliable. I also reject the defence assertion that the accused had not sought forgiveness from the complainant and her family.
29. The defence has not been able to create a reasonable doubt in the prosecution's case in respect of both the representative counts the accused is charged with.

30. This court is satisfied beyond reasonable doubt that between the 11<sup>th</sup> day of July, 2016 and 12<sup>th</sup> day of July, 2016 the accused had unlawfully and indecently assaulted the complainant Vaciseva Wati by licking her vagina.
31. Furthermore, this court is also satisfied beyond reasonable doubt that between the 11<sup>th</sup> day of July, 2016 and the 12<sup>th</sup> day of July, 2016 the accused had carnal knowledge of the complainant Vaciseva Wati without her consent.
32. I also 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.
33. I agree with the unanimous opinion of the assessors that the accused is guilty of one representative count of sexual assault and one representative count of rape as charged.
34. For the above reasons, I find the accused guilty as charged and I convict him accordingly.
35. This is the judgment of the court.



**Sunil Sharma**  
**Judge**

**At Lautoka**

14<sup>th</sup> June, 2019

**Solicitors**

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

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