

IN THE HIGH COURT OF FIJI

AT LAUTOKA

[CRIMINAL JURISDICTION]

CRIMINAL CASE NO. HAC 225 OF 2016

BETWEEN : **STATE**

AND : **INIA NAQIA**

Counsel : *Ms. R. Uce with Ms. S. Naibe for the State*
Ms. L. Volau for the Accused

Hearing on : *10th, 11th, 17th & 19th of June 2020*

Summing up on : *26th of June 2020*

Judgment on : *02nd of July 2020*

JUDGMENT

1. The accused, Inia Naqia was charged with 1 count of Rape. He pleaded not guilty to that charge and the matter was taken up for trial.
2. The charge was;

COUNT 1

Statement of Offence

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

Particulars of Offence

Inia Naqia, on the 04th day of September 2016, at Nadi, in the Western Division, penetrated the vagina of Sesenieli Drodro with his penis, without her consent.

3. The ensuing trial lasted for 4 days. The complainant Sesenieli Drodro and her father, Mr. Seruveveli Bogisa gave evidence for the prosecution while the accused gave evidence in his defense.
4. At the conclusion of the evidence and after the directions given in the summing up, the three assessors unanimously found the accused not guilty to the alleged count of Rape.
5. I direct myself in accordance with the law and the evidence led in this case, inclusive of which I have discussed in my summing up to the assessors.

Analysis

6. When analyzing the evidence I am mindful that only direct evidence which relates to the alleged incidents is the evidence of the PW1. I am also mindful that law does not require any corroboration of the complainant's evidence as per section 129 of the Criminal Procedure Act. Therefore, the ultimate question would be whether her evidence would be trustworthy and reliable.
7. The PW1's evidence had a few inconsistencies. Some were with her statement to the police and some were with her father's evidence. Having observed the demeanor of the witnesses and having carefully listened to all the evidence, I am of the view that the accused version remains a possibility. Therefore, in my opinion, the prosecution has failed to prove their case beyond a reasonable doubt. The accused is entitled to the benefit of such doubt.

8. Therefore the assessors were quite correct in opining that the accused was not guilty. In the light of the available evidence they have come to the correct finding.
9. This court has no option but to concur with the unanimous opinion of the assessors.
10. I acquit Mr. Inia Naqia of the offence of Rape.
11. This is the Judgment of the Court.



Chamath S. Morais
JUDGE

Solicitors for the State : ***Office of the Director of Public Prosecutions, Lautoka***
Solicitors for the Accused : ***Legal Aid Commission, Lautoka.***