

IN THE HIGH COURT OF FIJI AT SUVA

CASE NO: HAC. 362 of 2019
[CRIMINAL JURISDICTION]

STATE

V

ILIASERI MELVIN BALE

Counsel : Ms. S. Sharma for the State
Ms. N. Mishra for the Accused

Hearing on : 25 – 27 January 2021

Summing up on : 28 January 2021

Judgment on : 29 January 2021

[The name of the complainant is suppressed. Accordingly, the complainant will be referred to as “VW”. No newspaper report or radio broadcast of the proceedings shall reveal the name or address, or include any particulars calculated to lead to the identification of the said complainant.]

JUDGMENT

1. The accused is charged with the following offences;

FIRST COUNT

Statement of Offence

Rape: contrary to Section 207(1) and (2) (b) of the Crimes Act, 2009.

Particulars of Offence

ILIASERI MELVIN BALE on the 17th day of October 2019 at Nasinu, in the Central Division penetrated the vagina of **VW** with his fingers, without her consent.

SECOND COUNT

Statement of Offence


Rape: contrary to Section 207(1) and (2) (a) of the Crimes Act, 2009.

Particulars of Offence

ILIASERI MELVIN BALE on the 17th day of October 2019 at Nasinu, in the Central Division penetrated the vagina of **VW** with his penis, without her consent.

2. The assessors have returned with the unanimous opinion that the accused is not guilty of both charges above.
3. I direct myself in accordance with the summing up delivered to the assessors on 28/01/21 and the evidence adduced during the trial.
4. Given all the evidence adduced in this case, and the demeanour of PW1 when she gave her evidence, I find the account given by PW1 regarding her encounter with the accused relevant to this case to be unreliable.
5. It was evident that PW1 herself was not sure and did not remember what really happened between her and the accused mainly due to her level of intoxication during the material time.
6. Therefore, I agree with the unanimous opinion of the assessors and I find the accused not guilty of the two offences as charged.
7. The accused is acquitted accordingly.




Vinsent S. Perera
JUDGE

Solicitors;

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