

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

CRIMINAL CASE NO. HAC 98 OF 2022

STATE

-v-

ROKO JOSUA MUSUNAVANUA RAIWALUI MOALA WAQAIRATU

Counsels: Ms. Ram, Priya for the State
Mr. Emasi, Inoke for the Accused Person

Trial: 12th August, 2024 and 22nd September, 2025

Ruling: 24th September, 2025

RULING ON NO CASE TO ANSWER

1. The accused is charged with four counts (Counts 1 to 4) of Assault Causing Actual Bodily Harm contrary to **section 275** of the **Crimes Act, 2009** and one count (Count 5) of Act with Intent to Cause Grievous Harm contrary to **section 255(a)** of the same Act.
2. The accused pleaded guilty to the four counts of Assault Causing Actual Bodily Harm on 23rd May, 2022. He also admitted to the facts on 14th June, 2022. However, accused pleaded not guilty to count 5 which is Act with Intent to Cause Grievous Harm.
3. The trial commenced on 12th August, 2024 and Prosecution closed their case on 22nd September, 2025 after calling two (2) witnesses. At the close of the Prosecution case, the Defence made an application pursuant to **section 231** of the **Criminal Procedure Act, 2009** stating that there is a no case to answer against their client, the accused.
4. The Defence has filed their application for no case to answer and the Prosecution also responded accordingly. I must thank both counsel for filing their submissions.
5. The authority at this stage of the proceedings is section 231(1) and (2) of the Criminal Procedure Act, 2009. Section 231(1) and (2) reads as follows:

"...231.— (1) When the evidence of the witnesses for the prosecution has been concluded, and after hearing (if necessary) any arguments which the prosecution or the defence may desire to submit, the court shall record a finding of not guilty if it considers that there is no evidence that the accused person (or any one of several accused) committed the offence.


(2) When the evidence of the witnesses for the prosecution has been concluded, the court shall, if it considers that there is evidence that the accused person (or any one or more of several accused

persons) committed the offence, inform each such accused person of their right—

- (i) to address the court, either personally or by his or her lawyer (if any); and
- (ii) to give evidence on his or her own behalf; and
- (iii) to call witnesses in his or her defence..."

6. It is well settled that, the test at this stage of the trial is whether or not there is some relevant and admissible evidence, direct or circumstantial, touching on all elements of the charge, the weight and credibility of such evidence not being matters for assessment: *The State v George Shiu Raj & Another*, Criminal Appeal No. AAU 0081 of 2005, Fiji Court of Appeal; *The State v Brian Singh*, Criminal Appeal No. AAU 0097 of 2005, Fiji Court of appeal, *Sisa Kalisoqo v Reginam*, Criminal Appeal No. 52 of 1984, Fiji Court of Appeal and *State v Anesh Ram*, Criminal Case No. HAC 124 of 2008S, High Court, Suva.
7. In this case, after listening to the prosecution's 2 witnesses, and bearing in mind **section 231(1) and (2) of the Criminal Procedure Act 2009**, the authorities cited in paragraph 6 hereof and the parties' submissions, I am of the view that a prima facie case does not exist against the accused, requiring him be called upon to make his defence with regards to Count 5. There is a no case to answer.
8. The reason for the Court's decision was that the Prosecution has not adduced any evidence with regards to the element of "**with intent to do some grievous harm**". The complainant's evidence states that the accused had hit a louver in the heat of their argument causing it to shatter. At that instance she was sitting and one of the pieces fell and injured her shin. In cross examination the complainant again affirmed that she was sitting underneath the louvers. When the louver broke, the accused tried to hold the pieces together but one fell and injured her leg. The Prosecution concedes that from the complainant's evidence, the accused did not "deliberately" cause her injuries so the element on "**Intention**" was not established.
9. There is indeed a no case to answer against the accused for the offence of **Act with Intent to Cause Grievous Harm** contrary to **section 255(a) of the Crimes Act, 2009**.
10. The accused is acquitted forthwith for the said offence as per Count 5.
11. 30 days to appeal to the Fiji Court of Appeal.




Waleen M George
Acting Puisne Judge

Dated at Suva this 24th day of September, 2025

Solicitors for the State – Office of the Director of Public Prosecution, Suva
Solicitors for the Accused Person – Legal Aid Commission, Suva