

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

**CRIMINAL CASE NO. HAC 196 OF 2024**

**STATE**

**v**

**ILAITIA RADRAVU**

**Counsel:** Mrs. U. Ratukalou for the State  
Ms. O. Grace for the Accused

**Date of Trial:** 3 – 6 February 2026

**Date of NCTA Ruling:** 5 February 2026

**Date of Judgment:** 13 February 2026

---

**JUDGMENT**

---

**Caveat** – The alleged victim shall herein be referred as ‘NEL’ pursuant to the name suppression order.

1. **Ilaitia Radravu**, the accused, is indicted with a count of *Sexual assault* and two counts of *Rape* respectively contrary to sections 210(1)(a); and 207(1) & (2)(a) – (b) of the Crimes Act 2009, laid out as follows in the Information by the Acting Director of Public Prosecutions dated 14 August 2024 and filed on 15 August 2024.

## **COUNT 1**

### *Statement of Offence*

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

### *Particulars of Offence*

**ILAITIA RADRAVU** on an unknown date between 6<sup>th</sup> May 2024 and 17<sup>th</sup> May 2024 at Nakasi in the Central Division, unlawfully and indecently assaulted **NEL** by touching her breasts with his hands.

## **COUNT 2**

### *Statement of Offence*

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

### *Particulars of Offence*

**ILAITIA RADRAVU** on the same occasion as in Count 1, between 6<sup>th</sup> May 2024 and 17<sup>th</sup> May 2024 at Nakasi in the Central Division, penetrated the vagina of **NEL** with his tongue, without her consent.

## **COUNT 3**

### *Statement of Offence*

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

*Particulars of Offence*

**ILAITIA RADRAVU** on the same occasion as in Count 1, between 6<sup>th</sup> May 2024 and 17<sup>th</sup> May 2024 at Nakasi in the Central Division, penetrated the vagina of **NEL** with his penis, without her consent.

2. The prosecution commenced its case on 2 February 2026 and closed it on 3 February 2026, having called three witnesses i.e. PW1: NEL [ name suppressed ]; PW2: Mere Usumaki; PW3: Monish Monika Chand, and tendered **PE1** i.e. birth certificate of NEL (PW1), to prove its case against Ilaitia Radravu *beyond reasonable doubt*.
3. The defence opted for a *submission of no case to answer* which was heard on 4 February 2026, and on 5 February 2026 the Court ruled a *no case to answer* for Count 1: Sexual assault & Count 2: Rape and acquitted the accused Ilaitia Radravu accordingly, but a *case to answer* for Count 3 Rape.
4. As for Count 3 Rape, pursuant to section 231(2) of the Criminal Procedure Act 2009, the defence chose that the accused remain silent and not call other witness.
5. Both counsels made closing submissions on 6 February 2026, and this is the Court's judgment pertaining to Count 3 Rape in the indictment.

**Burden & Standard of proof**

6. Pursuant to sections 57 and 58 of the Crimes Act 2009 including Woolmington v DPP [1935] AC 462 at 481 (HL), the prosecution bears the burden to prove *beyond reasonable doubt* all elements of the of *Rape* in Count 3 of the Information.

### Physical and fault elements for Rape – Count 3

7. **Rape** is contrary to section 207(1) & (2)(a) of the Crimes Act 2009 which state:

#### *Rape*

207.-(1) *Any person who rapes another person commits an indictable offence.*

(2) *A person rapes another person if –*

(a) *the person has carnal knowledge with or of the other person without the other person's consent; ...*

206.-(4) *If “carnal knowledge” is used in defining an offence, the offence, so far as regards that element of it, is complete on penetration to any extent.*

**Consent** is defined under section 206(1) - (2) of the Crimes Act 2009 as:

206. *In this Part –*

(1) *The term “consent” means consent freely and voluntarily given by a person with the necessary mental capacity to give the consent, and the submission without physical resistance by a person to an act of another person shall not alone constitute consent.*

(2) *Without limiting sub-section (1), a person's consent to an act is not freely and voluntarily given if it is obtained –*

(a) *by force; or*

(b) *by threat or intimidation; or*

(c) *by fear of bodily harm; or*

(d) *by exercise of authority; or*

(e) *by false and fraudulent representations about the nature or purpose of the act; or*

(f) *by a mistaken belief induced by the accused person that the accused person was the person's sexual partner.*

8. The physical and fault elements for **Count 3: Rape** are:

[1] A person i.e. the accused Ilaitia Radravu;

[2] Penetrated the complainant NEL's vagina with his penis;

[3] Without the complainant's consent [ See ss. 206(1) - (2) ]; and

[4] Did so intentionally.

### **Agreed Facts**

9. The ***Agreed Facts*** between the prosecution and defence dated 18 December 2024 are as follows:

1) The complainant's name is NEL [ name suppressed ].

2) The accused's name is Ilaitia Radravu.

3) The complainant and Ilaitia are known to each other as Ilaitia is the complainant's uncle.

4) Ilaitia's wife is the complainant's father's older sister.

5) During the term 1 school holidays in 2024, the complainant went to reside with Ilaitia and his wife at Drala Place, in Nakasi for the holidays.

6) On 8<sup>th</sup> July 2024, the complainant lodged a report with the Nakasi Police Station.

### **Prosecution case via PW1**

#### **PW1 – NEL [ name suppressed ]**

10. In **examination-in-chief** PW1 testified that her date of birth is 13 September 2010, and she is 15 years old, not attending school, and reside at Nanuku Settlement, Vatuwaqa, Suva. Her father's name is Bogi Tawalesumai and mother's name is Ilisapeci Elder. By leave of the

Court, PW1 was shown a document, which she identified as her birth certificate, and the prosecution then tendered a copy of the said birth certificate as prosecution exhibit 1 [ **PE1** ]. PW1 stayed with her uncle Ilaitia and his wife Akosita Vakatototo who is PW1's father's older sister, in Nakasi during the term 1 school holiday in May 2024. On a Sunday in May 2024, PW1 and her cousin Taka had gone to church and after church they returned home, and PW1's aunt Akosita Vakatototo had reached home before them. While at home that Sunday evening, Taka told PW1 that she would be going on a date, and then went to bring her boyfriend and the boyfriend's brother. Taka told PW1 to talk to her boyfriend's brother, and PW1 said no to Taka because if they reach home late, they would get into trouble, but Taka insisted that they go and it would be quick. PW1 told Taka for them to take the long route, but Taka insisted that they take the shortcut via PW1's uncle's farm. Taka then told PW1 that she will go elsewhere with her boyfriend to talk, then left, while PW1 sat at that spot with Taka's boyfriend's brother who then told PW1 stories of his life in the village, and PW1 introduced herself to him saying her name, age and where she hails from. PW1 and Taka returned home after dating, and Taka told PW1 not to tell their aunt that she was on a date. When they reached home, their aunt asked them where they had been, and PW1 lied to her aunt that she was with her maternal uncle Josaia to cover up for Taka. PW1's aunt then told them to have dinner and go straight to sleep, which they did.

On the next day i.e. Monday, PW1 woke up, made her lunch, and went straight to school. After school, PW1 returned home to Nakasi, and Taka and her uncle Ilaitia who was outside on the porch, were at home. PW1 was then asked by her uncle whether she had a good day in school that day, which PW1 answered in the affirmative. PW1 then went to change into her tights and t-shirt, and proceeded to the farm behind their flat where Taka and her uncle Ilaitia were, to see what they were doing. When reaching the farm, Taka had gone to climb the guava tree to fetch some guava, PW1 sat down, and her uncle Ilaitia weeded the plantation. Taka returned from picking guava, and they ate the guavas together. While sitting with Taka at the farm, PW1 saw Taka and her uncle Ilaitia signaling each other, and she then asked Taka what were they signaling and talking about, to which Taka did not respond but giggled with her uncle. Taka then told PW1 for them to return home, and while at home PW1 told Taka for

them to prepare dinner and cooked rice in their kitchen. Taka then told PW1 for them to return to the farm where her uncle was, PW1 asked Taka as to what they were going to do at the farm again, but Taka insisted that they go, and so PW1 followed Taka to the farm. It was still daytime when they went back to the farm, and upon reaching the farm, Taka told PW1 to go and help her uncle Ilaitia weed and plant. PW1 went to help her uncle Ilaitia, and while weeding, her uncle told her for them to go somewhere else just to see something and return thereafter. PW1 then followed her uncle Ilaitia who had taken her to a big tree and it was dark under that tree. When they got to the big tree, PW1 asked her uncle as to what they were doing there, but her uncle told her to keep quiet, and PW1 could not do anything because he was holding a cane knife. PW1's uncle then picked a big leaf, spread it on the ground, and forcefully told PW1 to sit down, but PW1 remained standing, and her uncle forced her by pushing her shoulders downwards to sit down. After that he took off PW1's trousers, and PW1 told him not to do that, but he told her to remain quiet and not to do anything. He then took off his pants, and PW1 tried to turn so that she can put her clothes back on and escape, but he told her to keep still, and the cane knife was beside him. He only took off PW1's trousers and underwear, but not her t-shirt. PW1 stated that before Taka and her cooked rice that particular day, she had changed from her tights that she had worn earlier after returning home from school to a black trousers and t-shirt, which clothing she wore when she returned to the farm again with Taka. After he had taken off PW1's trousers and panty and then his own trousers, he then inserted his penis into PW1's vagina, which he did for a bit long. PW1 reacted by pushing his stomach and told him that what he was doing is painful, and she felt pain in her vagina, but her uncle Ilaitia told her to be quiet because she is not in control [ I-Taukei – "... *au sega ni lewa e dua na ka.*" ]. While he was penetrating her vagina with his penis, PW1 kept telling him to stop as it was painful. After that, he then put on his clothes and told PW1 to put on her clothes as well, and for her not to say anything about what had just happened when they got home, and if he hears that she had said something, then she would face the consequence. Apart from her uncle putting his penis into her vagina, PW1 testified that her uncle did not do anything else to her. After putting on her clothes, PW1 then went home, and when reaching home, she saw Taka who laughed at her. PW1 then asked Taka if she and her uncle knew what he had done to her, to which Taka replied that she knew, but did not want to tell PW1. Taka also told PW1 on that Monday that she will go with her uncle on

the next Tuesday. PW1 stayed at Nakasi that Monday night with her uncle, aunt and their children including Taka. PW1 did not tell anyone at home what had happened to her that day, except Taka, because her uncle had told her not to tell anyone, and if she does, she would face the consequence. PW1 left Nakasi and returned to her own home on the following day which was a Tuesday, after attending school. PW1 did not tell anyone at her home what her uncle Ilaitia did to her as she was afraid of her uncle.

In 2024, PW1 was in class 8 at Arya Samaj Primary School, and her class teacher was Ms. Monisha Kumar. PW1's close friend in school was a Mere, and she told Mere on that Tuesday that she was uncomfortable and constantly weak, to which Mere asked PW1 why, and PW1 then told Mere that her uncle had done something to her. PW1 told Mere that she had returned from school and then went with Taka to the back where her uncle was at the farm, her uncle then took her under a big tree and did stuff to her. PW1 told Mere that her uncle had done things to her. Mere was shocked and asked PW1 whether her uncle had done those things to her. Apart from Mere, PW1 also told her class teacher Ms. Monisha after the exam on Friday. After telling her teacher, the teacher then told PW1 for them to report the matter to the police, and also called PW1's mother. Once the matter was reported to the police, PW1 went to her mother's village in Buretu, Tailevu. PW1 usually call her uncle at home as *momo* Lai [ i.e. *momo* is an I-Taukei term meaning uncle ].

11. In **cross-examination** by defence counsel, PW1 stated that she resided at Nakasi with her *momo* or uncle, *nei* or aunt, Takayawa, Takayawa's mother, Semiti and Sami. PW1 agreed that she would go to Nakasi on weekends and school holidays, the Nakasi flat has three bedrooms, the other flat belongs to the landlord, and situated right at the roundabout at Drala Place. Just beside the flat towards the back is PW1's uncle's plantation. PW1's uncle, Sami and Semiti are grasscutters, and when she was there at Nakasi she would see them leave in the morning to cut grass after breakfast and return home in the evening. Upon returning from grass cutting, PW1's uncle, Sami and Semiti would go to the plantation which is right behind their flat, and there are other houses beside the flat, and the neighbours can have a clear view

of the said plantation as their porch face the plantation. Whenever she is in Nakasi, PW1 and Takayawa would go to the plantation to get taro leaves, and PW1 is familiar with what all is planted at her uncle's plantation. PW1 recalled the Sunday in May 2024 when she returned from church. PW1 did not agree with defence counsel's proposition that in the evening of that Sunday, PW1's uncle had seen her and Takayawa dating two boys in the plantation, but instead PW1 stated that it was Taka who had gone on that date and wanted PW1 to talk to the boyfriend's brother. PW1 stated that her uncle did not see them with the two boys because he was seated at the porch with her aunt. PW1 admitted that they were sitting at the cassava patch, her uncle saw Taka kiss the boy she was with, but did not see PW1 lying on the ground with a boy on top of her. PW1 did not agree with defence counsel's proposition that her uncle saw her remove her pants but had her t-shirt on, but instead said that on that particular day she wore a dress. PW1 stated that while in Nakasi in May 2024, she had gone with Taka and her uncle to the plantation on that Monday. PW1 stated that her uncle had sex with her by penetrating her vagina with his penis. PW1 did not agree with defence counsel's proposition that she had made up the allegation because her uncle had seen her and Taka dating at the plantation, but instead said that she did not make up the allegation and she is telling the truth. PW1 maintained that she is telling the truth, and did not agree with defence counsel's proposition that Taka and her decided to lie to the police because she was scared that her uncle will tell on her to her aunt. PW1 admitted that she had lied to her aunt about Taka dating at the plantation because she kept to what Taka had told her and covered up for Taka. PW1 stated no to defence counsel's proposition that Taka told her to lie to the police about the allegation against her uncle. PW1 admitted that she lied to her aunt to cover for Taka, but denied lying about this allegation to also cover for Taka.

12. PW1 was not **re-examined** by the prosecutor.

### **PW2 – Mere Usumaki**

13. In **examination-in-chief** PW2 testified that she is aged 14 years and a Form 3 student at Marist Champagnat. In 2024 she attended Arya Samaj primary school as a class 8 student, her

class teacher was Mrs. Monish, and best friend was NEL whom she had known for 3 years and her desk mate. PW2 and NEL shared problems regarding things that happen at home, and in May 2024, NEL told PW2 that she got raped by her uncle. PW2 confirmed that NEL used the word ‘rape’, and they told two other girls about this. PW2 said that she did not tell Ms. Monish about NEL being raped on the same day that NEL told her about the rape because NEL told her not to since NEL was embarrassed. PW2 then eventually told Ms. Monish sometime in July about NEL being raped by her uncle.

14. In **cross-examination** PW2 stated that NEL did not lie to her about being raped.

15. PW2 was not **re-examined** by the prosecutor.

### **PW3 – Monish Monika Chand**

16. In **examination-in-chief** PW3 testified that she is aged 36 years, a school teacher and residing at Lot 12 Kanace Road, Valelevu. PW3 has been a school teacher for 16 years and currently teaching at Arya Samaj primary school, and taught at the said school in 2024 to students in Year 801. PW3 knows NEL who was her student in 2024, and likewise a student by the name of Mere Maikutu who was NEL’s classmate. PW3 stated that Mere Maikutu is also known as Mere Usumaki, and she preferred using the name Mere Maikutu. PW3 recalled 5 July 2024, and at about 1.00 pm on that particular day, she did her normal teaching and thereafter NEL and Mere came to her, and Mere said that NEL wanted to tell her something important. In the course of that conversation Mere accidentally told PW3 that NEL was raped, so PW3 sent Mere back to her place, then took NEL outside the classroom and asked her as to what actually happened to her. NEL then told PW3 that she visited her uncle and family in Nakasi, and her uncle, NEL and another girl went to the farm, and after sometime the other girl returned home, and thereafter her uncle raped her. PW3 then asked NEL to clarify what she meant by ‘rape’, to which NEL responded that her uncle removed her clothes, pushed her on the

ground, and had sex with her. After confirming the whole incident, PW3 then reported the matter to the Head of school who then reported the matter to the Nakasi Police Station.

17. In **cross-examination** PW3 stated that prior to July 2024, NEL wore cardigan to school supposedly because of the cold season, and she appeared normal to her.

18. PW3 was not **re-examined** by the prosecutor.

**Analysis of the entire prosecution vis-à-vis defence case for Count 3: Rape**

19. **Count 3: Rape** is contrary to section 207(1) & (2)(a) of the Crimes Act 2009, and the relevant physical and fault elements are:

[1] A person i.e. the accused Ilaitia Radravu;

[2] Penetrated the complainant NEL's vagina with his penis;

[3] Without the complainant's consent [ See ss. 206(1) - (2) ]; and

[4] Did so intentionally.

20. Having carefully scrutinized the entire evidence, I find as follows:

(1) **Accused identity**

The *Agreed Facts* and PW1's testimony clearly establish that the accused Ilaitia Radravu and PW1 knew each other since the accused is PW1's uncle through his wife Akosita Vakato who is the elder sister of PW1's father. The evidence also establish that during term 1 school holiday in May 2024, PW1 stayed at the three-bedroom flat situated at Drala Place, Nakasi, with the accused Ilaitia Radravu and his wife Akosita Vakato,

Semiti Savu, Takayawa and Takayawa's mother. Thus, the identity of the accused Ilaitia Radravu is well established and substantiated by the evidence.

(2) **Evidence of Rape – carnal knowledge, lack of consent, intention to rape**

(a) **Complainant NEL's [ PW1 ] testimony**

In the afternoon of that particular Monday in May 2024, PW1 returned to the farm to assist her uncle Ilaitia Radravu weed and plant, and while weeding, her uncle told her for them to go elsewhere to see something and then return, to which PW1 obliged and followed her uncle to a big tree and it was dark under that tree. When they arrived at the big tree, PW1 asked her uncle as to what they were doing there, but he told her to keep quiet, and PW1 could not do anything because he was holding a cane knife. PW1's uncle then picked a big leaf, spread it on the ground, and forcefully told PW1 to sit down, but PW1 remained standing and he then forced her by pushing her shoulders downwards to sit down. He then took off PW1's trousers and panty despite PW1 telling him not to do that, but he told her to remain quiet and not to do anything. He then took off his pants, and PW1 tried to turn so that she can put her clothes back on and escape, but he told her to keep still with the cane knife beside him. After he had taken off PW1's trousers and panty and then his own pants, he then inserted his penis into PW1's vagina, which he did for some time. PW1 reacted by pushing his stomach and told him that what he was doing is painful as she felt pain in her vagina, but he told her to be quiet because she is not in control. While he was penetrating her vagina with his penis, PW1 kept telling him to stop as it was painful. After that, he then put on his clothes and told PW1 to put on her clothes as well, and for her not to say anything about what had just happened when they got home, and if he hears that she had said something, then she would face the consequence.

(b) **Evidence of recent complaint of rape**

In July 2024 while attending Arya Samaj primary school as a class 8 pupil, PW1 told her best friend and desk mate PW2 that she was raped by her uncle in May 2024. Subsequently on 5 July 2024 at about 1.00 pm, PW2 blurted out to PW3 that PW1 was raped, and PW3 took PW1 aside to find out, and PW1 told PW3 that her uncle removed her clothes, pushed her on the ground, and had sex with her. This information was then conveyed to the Head of school who then reported the matter to the Nakasi Police Station.

- (3) PW1 NEL, the complainant, is a credible, reliable and truthful witness, and her demeanour while testifying has enhanced the credibility and reliability of her account, and her testimony was not heavily discredited during cross-examination. Therefore, I attach immense weight to her testimony, believe and accept it as proving *beyond reasonable doubt* Count 3: Rape in the indictment.
- (4) The *recent complaint evidence* was adduced by PW2 and PW3, whose testimonies are credible, reliable and truthful, and does not in any manner or form contradict that of PW1 the complainant. PW2's and PW3's demeanour at trial has also enhanced the credibility and reliability of their respective testimony, and I therefore attach substantial weight to their accounts, which accounts of *recent complaint* has also bolstered the credibility and reliability of PW1's testimony.
- (5) PW2's and PW3's testimonies held together with that of PW1 are consistent, credible and reliable, and any discrepancy does not, in my view, render the prosecution evidence incredible and unreliable. In Nadim v State [2015] FJCA 130; AAU0080.2011 (2 October 2015) at paragraph 15, Prematilaka, J. stated:

*[15] It is well settled that even if there are some omissions, contradictions and discrepancies, the entire evidence cannot be discredited or disregarded. Thus, an undue importance should not be attached to omissions, contradictions and discrepancies which do not go to the heart of the matter and shake the basic version of the prosecution's witnesses. As the mental abilities of a human being cannot be expected to be attuned to absorb all the details of incidents, minor discrepancies are bound to occur in the statements of witnesses.*

(6) Given (1) – (5) above, the prosecution has therefore proved *beyond reasonable doubt* that the accused Ilaitia Radravu penetrated NEL’s (PW1) vagina with his penis, without NEL’s consent, and did so intentionally, at Nakasi, between 6 and 17 May 2024, as per Count 3: Rape in the indictment.

### **CONCLUSION**

(21) Based on all the reasons raised above, I therefore find the accused Ilaitia Radravu ***guilty*** of **Count 3: Rape** in the Information, and ***convict*** him accordingly.

(22) Thirty (30) days to appeal to the Fiji Court of Appeal.



A handwritten signature in blue ink, which appears to read "Pita Bulamainavalu".

.....  
Hon. Mr. Justice Pita Bulamainavalu  
**PUISNE JUDGE**

### **At Suva**

13 February 2026

### **Solicitors**

Legal Aid Commission for the Applicant

Office of the Director of Public Prosecutions for the Respondent