

IN THE MAGISTRATE'S COURT AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. 34 of 2012

STATE

V

NALESHNI LATA

For the Prosecution : **Ms Vavadakua. A**

For the Accused : **Mr Ratule. K**

Judgment : **24 November 2017**

JUDGMENT

1. The accused, Naleshni Lata, is charge for *Assault Causing Actual Bodily Harm*, contrary to *section 275 of the Crimes Decree 2009*. The particulars of the offence are;-

"Naleshni Lata on 5th day of December 2012, at Labasa, in the Northern Division, assaulted Pritika Lata Singh, thereby causing actual bodily harm."

2. The Accused pleaded not guilty to the charge on 7 September 2015. The case proceeded to trial on 8 July 2016.
3. At the hearing, the Prosecution called two witnesses including the victim. The Accused and another are the witnesses for the Defence. At the end

of the trial, the Prosecution seek time to file closing submission. Direction was given to both the counsel to file submission. The Prosecution filed her submission on 4 October 2016. On 17 March 2017, the Counsel who appeared for the defence informed the court that they are not filing any submission.

4. *Section 275 of the Crimes Decree 2009 state;-*

"A person commits a summary offence if he or she commits an assault occasioning actual bodily harm."

5. The elements of the offence that the prosecution must prove beyond reasonable doubts are;-

- a. *the accused assaulted the victim,*
- b. *the assault caused actual bodily harm to the victim.*


6. The first Prosecution witness is Pritika Lata Singh (the victim). On 5 December 2012, she was ironing her mother in law's (the accused) dress at their home at Qelewaqa. The Accused did not like a mark on her dress and she yelled at her. The Accused then hold her hand and placed the iron on her left hand. The iron was not that hot but it was pain when the accused placed it in her hand and it got scar on her hand. She yelled and cried. It was only her and the accused who were present at the time of the incident. Her in laws call the Police. She was coached by her in laws to inform the Police that she burned her own hand and she lied to the Police that she burned her hand. She did not do anything after that because her movement was restricted. She reported the matter to the Nabouwalu Police Station more than a month after the incident. That was after she had the opportunity to run away from their house at Qelewaqa. She did not report at Labasa or Seaqaqa Police Station because she wanted to be safe first. She ran away to her parents place in Bua and report at Nabouwalu Police Station.

7. The second Prosecution witness is Doctor Lavinesh Raj currently based at the CWM Hospital in Suva. He prepared the Police Medical Report in this case. He examined Pritika at Nabouwalu Police Station on 4 January 2013, on the information that her mother in law burned her hand. He find the healed burned mark on Pritika's hand. He tendered the Police medical report as PE1.
8. The Accused deny the allegation. She said on 5 December 2012, she went to town for shopping and the victim and one Jaysen were at home. It is her case that the victim burned her own hand.
9. The second witness for the Defence is Narain Sami the husband of the accused. On 5 December he was in the shop. He saw the victim's hand burned. He called the Police, the Police came and the victim informed the Police that she burned her own hand.
10. The Prosecution has adduced evidence that the accused assaulted the victim by holding the victim's hand and place the iron on the victim's hand. It was pain and there is scar on her left hand. The Doctor has confirmed the burned scars on the victim's hand. With all these evidence, the elements of the offence has been established.
11. Considering the Accused denial, the main issue is on the credibility of the witness. I now proceed to my assessment and analysis.
12. If the victim burned herself as suggested by the accused, why did she complaint to the Police and go through the ordeal of trial. There is no adverse medical report to suggest that the victim is or was suffering from mental disorder to suggest that she can burned her own hand. It is very hard to accept as a fact for a person with stable and normal mind to burn her hand and to go through suffering from pain and got scar on her hand.

13. As a trier of facts with the advantage and had the benefit of observing the demeanour of the witnesses at the trial, I find the prosecution witnesses to be more credible and I accept their evidence.
14. I accept the victim's evidence that the accused burned her hand and with the restriction she had when living with the accused, she was not able to lodge a complaint with the Police immediately after the incident. She lodge the complaint to the Police when she had the opportunity to run away from the accused.
15. In assessing the evidence in totality, I find that the Prosecution has proven his case beyond reasonable doubt.
16. In my judgment, I find the Accused guilty as charged and convicted the Accused accordingly.

28 days to appeal




C. M. Tuberi
RESIDENT MAGISTRATE