

**IN THE MAGISTRATE'S COURT AT LABASA**  
**CRIMINAL JURISDICTION**

*Criminal Case No. 121 of 2012*

**STATE**

v

**RAVNEET KUMAR**

For the Prosecution : **CPL Monish**

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

Judgment : **9 March 2018**

**JUDGMENT**

1. The accused, Ravneet Kumar was charged for *Indecent Assault*, contrary to *section 212* of the *Crimes Decree 2009*.
2. The name of the victim is suppressed to protect her privacy and interest and referred to as LS in this judgment.
3. The particulars of the offence are; -  
  

*"Ravneet Kumar on the 3<sup>rd</sup> day of July 2011, at Labasa in the Northern Division, unlawfully and indecently assaulted LS by holding and touching her breasts."*
4. On 1 March 2012, the Accused waived his rights to counsel and pleaded not guilty to the charge on 19 April 2012. The case proceeded to trial on 18 August 2016.

5. At the trial, the Prosecution called four witnesses. The Accused is the only witness for his case.

6. The charge refers to section 212 but not specifying the subsection. The offence of indecent assault is provided in *section 212(1) of the Crimes Decree 2009*, which state:-

*"A person commits a summary offence if he or she unlawfully and indecently assaults any other person".*

7. The elements of the offence that the prosecution must prove beyond reasonable doubts are:-

- a. *the accused,*
- b. *had indecent contact with the victim,*
- c. *without the victim's consent,*
- d. *by forcible compulsion.*

8. LS in her evidence stated that on 3 July 2011, she was lighting the fire in her kitchen when the accused came from her back and grab her breasts and told her that he want to have sex with her. She shouted because she did not like what the accused did to her and she pushed his hands away, went outside and called her father in law. The accused then told her on why you calling your father in law you bitch. She informed her father in law of what the accused did to her. Her father in law gave his phone to her and she called her husband informing him of what the accused did to her. Her husband came home and they went to report to the Police Station. She knew the accused as he was renting in her house and he identify the accused in court.

9. Shobna Devi is the second prosecution witness. She is the mother in law of LS. She stated that on 3 July 2011, at about 1.30pm she was sitting in her veranda and she heard LS shouting. She came outside and saw LS and the accused. The accused ran to his room. She knew the accused as he was renting at the house of LS.

10. The third prosecution witness is Indra Pal. He is the father in law of LS. He stated that on 3 July 2011, at about 1.30pm he was having his lunch when he

heard LS calling. He came outside and saw LS was shivering. He asked LS and LS told him that Apur was holding her by gesturing to her breasts. He identify Apur as the accused. He does not know the real name of the accused but he knows him by the name of Apur as the accused and him were from Taganikula. He gave his phone to LS to call her husband. Her husband came and they went to the Police Station.

11. Pravin Ashish is the husband of LS and the fourth witness for the prosecution. On 3 July 2011, at about 1.55, LS called him using his father's phone and she was crying. LS told him that the accused hold her from the back. He went home pick LS and went to report to the Police. He identify the accused in court.
12. The Accused in his evidence confirmed that he was at Siberia in his room at LS house on 3 July 2011, but deny the allegation of indecent assault. He was only demanding for his rice cooker from LS and he deny holding LS. In cross-examination, he confirmed that he is also known as Apur.
13. The Accused is denying the allegation. The issue of credibility has to be considered.
14. LS stated that when the accused holding her hand and touched her breast she shouted. Shobna and Indra confirmed that they heard LS shouting. They came out and LS informed them of the incident which LS stated in her evidence. Indra the father in law gave his phone to LS to call her husband which LS did. Shobna stated when she came out she saw the accused and LS outside. LS husband confirmed that he received the phone call from LS after 1 o'clock. Where LS informed her of what the accused did to her as stated in her evidence. The Accused confirm that he was at his home at Siberia at 1.30pm.
15. LS is consistent with her evidence, and the chain of events up to reporting at the police station. The evidence of the other three witnesses are consistent and support LS evidence. The timing is consistent to the time in which the Accused was at the place of the incident.
16. In assessing the credibility of the witness, I find the Accused not to be a credible witness. His evidence were self serving. If the Accused did not

offended against LS, I do not see any reason on why LS has to shout which was heard by her in laws. The facts that LS has to go through the ordeal of this case up to trial shows the truth in her story. I have reminded myself that all the prosecution witnesses are related. However, the evidence were consistent and support each other on the chain of events. I find all the prosecution witnesses as credible as their evidence shows and proved what really happened on that day.

17. The evidence of LS has established all the elements of the offence. I find that the Prosecution has proven his case beyond reasonable doubt.
18. In my judgment, I find the Accused guilty as charged and I convicted the Accused accordingly

**28 days to appeal.**



C. M. Tuberi  
RESIDENT MAGISTRATE