

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

*Criminal Case No. 336 of 2012*

**STATE**

v

**SARLA DEVI**

Appearance : **PC Lal** for the prosecution  
**Mr Raramasi. S** for the accused

Judgment : **6 March 2019**

**JUDGMENT**

1. The accused, Sarla Devi is charge for *Assault Causing Actual Bodily Harm*, contrary to *section 275* of the *Crimes Decree 2009*.
2. The particulars of the offence are;-  
*"Sarla Devi on the 1<sup>st</sup> day of February 2012, at Labasa in the Northern Division, assaulted Yamna Wati and caused her actual bodily harm."*
3. The Accused pleaded not guilty to the charge on 1 October 2012. The case proceeded to trial on 11 July 2016. The Prosecution called three witnesses and closed his case. The Defence filed no case to answer. The Court ruled on 27 July 2017, that there is a case to answer.

4. The trial continued for the defence case on 30 May 2018. The Accused is the only witness for her case. At the end of the trial, Counsel for the accused sought time to file closing submission and the same was filed on 12 June 2018.

### **Law**

5. *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.*
  
6. The elements of the offence that the Prosecution must prove beyond reasonable doubt are;-
  - (a) *the accused,*
  - (b) *assaulted the victim,*
  - (c) *causing actual bodily harm to the victim.*
  
7. The burden of proof is on the prosecution to prove all the elements of the offence beyond reasonable doubt.

### **Prosecution Evidence**

8. The victim, Yamna Wati is the first witness for the prosecution. She stated that Sarla Devi is her neighbour and she identified her as the accused in the dock. She cannot recall the date of the incident, but it was sometime in February 2012, when a dispute arosed between them and the accused. The accused got angry and threw a safety boot at her and hit the right side of her head. She felt dizzy and leaned on a post. The accused also threw a knife at her and her husband pushed her in front and the knife went in between them. The accused then hit her right shoulder with a hoe and she received injuries. Her husband chase the accused away. The accused came back and swearing. The husband of the accused came and took the accused away. The police came, the accused reported, and she was charged. She was taken to the hospital on the injuries on her right shoulder and right side of her head. She tendered her medical report as *prosecution exhibit 1.*

9. In cross-examination, she said that she was charged for *Act With Intent to Cause Grievous Harm* and she pleaded guilty to the charge. The accused threw the safety boot at her and hit her shoulder with hoe. There were some injuries on her shoulder.
10. Prakash Chand is the second witness for the prosecution. He stated in his evidence that he is the husband of the victim. The accused assaulted her wife on 2<sup>nd</sup> or 3<sup>rd</sup> of February 2012. He identified the accused in court. He was with the victim at home when the accused came to ask for pawpaw. He asked the accused as to which lady he was going out with. The Accused threw the safety boots at the victim and landed on the right side of her head. The Accused also threw the knife at the victim but it did not hit anyone. The Accused picked the hoe and assaulted the victim with the hoe by hitting the victim on her right shoulder. He told the accused to go away.
11. In cross-examination, he stated that he saw the victim was bleeding.
12. PC Vikash is the interviewing officer and was called to the stand by the Counsel for the accused for cross examination. He stated that the accused deny the allegation and he never wrote anything he was not told. He tendered the caution interview as *defence exhibit 3* and the summary of facts as *defence exhibit 4*.

#### **Accused Evidence**

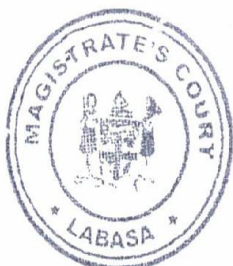
13. The Accused stated in her evidence that on 1 February 2012, she went to her son's Prakash place and when talking with her son (the husband of victim), the victim started swearing at her and assaulted her with shoes. As she turned to go back, the victim struck her with a knife. She shouted and her husband came and took her. Her son told his wife (the victim) that he told her to use words and not knife. His son pushed the victim inside the house. They went to the hospital. The allegation against her is all lie and she did not assault the victim. The victim was assaulted by her husband.
14. In cross-examination, the Accused stated that the victim threw the safety boots at her first and she did not do anything. She did not throw the safety

boots to the victim. There was no hoe and she did not hit the victim with a hoe. The victim is telling lies.

**Analysis and Determination**

15. The Victim stated that she was assaulted by the accused resulted in her receiving the injuries stated in her medical report in *prosecution exhibit 1*. These evidence have satisfied all the elements of the offence.
16. The Accused is denying the allegation. It is the accused case that the injuries on the victim were not caused by her, it were caused by the victim's husband. With the denial of the accused, the issue is on credibility.
17. The evidence of the victim has established the elements of the offence. Her evidence of assaulted by the accused resulting in injuries to her was supported by the evidence of the second witness. His evidence is the evidence of a person who was an eye witness to the incident. The second witness is the husband of the victim and the son of the accused. Accordingly, I will accept his evidence. In my assessment on credibility, I find that the victim is telling the truth as her evidence was supported by the second witness, her husband.
18. In assessing the evidence, I accept the prosecution evidence that the accused assaulted the victim resulted on the injuries sustained by the victim as shown in the medical report. Accordingly, the Prosecution has proven the case beyond reasonable doubt.
19. In my judgment, I find the Accused guilty as charged and convicted the Accused accordingly.

**28 days to appeal**



C. M. Tuberi  
RESIDENT MAGISTRATE