

IN THE MAGISTRATES COURT AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. 409 of 2018

STATE

V

MONIL ANIL PRASAD

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

Judgment : **24 July 2020**

JUDGMENT

1. The accused, Monil Anil Prasad is charge for the offence of *Defilement of a Young Person Between the Age of 13 years and 16 years* contrary to *section 215(1)* of the *Crimes Act*.
2. The name of the victim is suppressed to protect her privacy and interest and is referred to as "the Victim" in this judgment.
3. The particulars of the offence are that the accused between 1 January 2017 to 30 April 2017, at Labasa in the Northern Division, had unlawful carnal knowledge of the victim a young

person being of or above the age of 13 years and under the age of 16 years.

4. The accused pleaded not guilty to the charge on 1 October 2018.
5. The case proceeded to trial on 3 March 2020 and continued on 11 June 2020. The Prosecutor called two witnesses to the stand. The court ruled that there is a case to answer. The accused exercised his rights to remain silent and call no witness to the stand.

Law

6. *Section 215(1) of the Crimes Act, state:-*

"A person commits a summary offence if he or she unlawfully and carnally knows or attempt to have unlawful carnal knowledge of any person being of or above the age of 13 years and under the age of 16 years".

7. The elements of the offence are:-

- a. *the accused,*
- b. *had unlawful carnal knowledge of the victim,*
- c. *when victim is above 13 years and under 16 years old.*

8. The burden of proof is on the prosecution to prove all the elements of the offence beyond reasonable doubt.

Analysis and determination

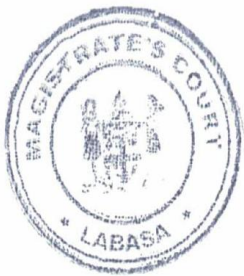
9. The accused was identified in court by the victim and her father. The victim is the first witness for prosecution case. The victim's father is the second witness for the prosecution case.

10. The Victim tendered her birth certificate as prosecution exhibit 2. The birth certificate state the victim's birth date as 28 October 2002. The Victim stated in her evidence that in 2017, she was 14 years and 2 months old. The evidence shows that the victim was above 13 years and under 16 years at the time of the alleged offence.
11. The Victim confirmed in her evidence that the accused had sexual intercourse with her and she cannot remember how many times they had sexual intercourse. The Victim stated that she consented to the sexual intercourse and the sexual intercourse was consensual.
12. *Section 215(3) of the Crimes Act states that "It is no defence to any charge under sub section (1)(a) to prove that person consented to the act."* In light of this section and the evidence of the victim, the sexual intercourse between the victim and the accused was unlawful as it is forbidden by law.
13. The evidence of the prosecution adduced as discussed has established that the accused had unlawful carnal knowledge of the victim when the victim was above 13 years old and under 16 years old.
14. The accused exercised his rights to remain silent and no adverse inference will be drawn against him in that regard.
15. There was no evidence from the defence to create doubt on the evidence of the prosecution. The evidence of the prosecution was not discredited nor challenged and I accepted the

prosecution evidence as discussed above. The evidence has established all the elements of the offence beyond reasonable doubt.

16. In this judgement, I find the accused guilty as charged and I convicted the accused as charged.

28 days to appeal



A handwritten signature in blue ink, appearing to read "Kubera" or similar, written in a cursive style.

C.M. Tuberi
Resident Magistrate