

Between : Public Prosecutor

And: Jean Pierre Rousmakoa

Coram: The Honourable Chief Justice, Frederick G. Cooke.  
Mr. F. Côté, Public Prosecutor.  
Mr. Pierre Yameck, Assessor.  
Mr. Bob Ranga, Assessor.  
Mr. David Hosea, Interpreter,  
Miss V. Millett, Acting Assistant Registrar.

JUDGMENT

In this case it was alleged by the Prosecution that the accused raped a girl named Tariala. The evidence of the girl was that on the night of the 23rd of October 1981, there was a sporting fixture at White Sands Tanna, to which she and her husband went. That after the games she went with some girls to a house whilst her husband went to another house. She carried a bag with her husband's change of clothes. On the evening of the 23rd of October three boys which included the accused came to the house where she was and told her, her husband wanted his clothes. She left for the house where he (husband) was with the accused and two other boys; that on the way the two other boys disappeared and then the accused dragged her into the bushes, put her on the ground pulled up her dress and pulled down her panties to her knees; that he then had sexual intercourse with her. She then said the accused left her in the bush and went away, that she got up and went to the road side and later met her husband and went to the dance with him. She did not tell her husband of the assault until they were going to bed the next day and when she was discharging blood from her vagina which later proved to be a miscarriage. Her husband in evidence stated they went to the dance and that the complainant danced at least twice with the accused. This really was the only evidence against the accused. The accused in evidence on oath stated he did have intercourse with the complainant but that she did in fact lift up her own dress and pulled her pants to her knees and he removed them. That the complainant hugged and kissed him and stated that she no longer wanted her husband and suggested marriage to the accused because her husband was having affairs with other girls. The accused's evidence was supported by evidence from a Chief who stated the complainant came to see him and told him that her husband was having an affair with other girls. On considering all the aspects of the case the assessors and myself did not believe the evidence of the complainant, we thought the evidence of the accused was true.

Again the complainant did not report the incident to her husband until the following morning and even danced with the accused which to us seemed strange if she was alleging that he raped her some hours before.

We were of the opinion that the prosecution had not proved their case beyond all reasonable doubt. The evidence of the complainant was too suspect to us and we did not believe her to be a witness of the truth.

We gave the benefit of the doubt to the accused and acquitted and discharged him.

*Frederick G. Cooke*  
Frederick G. Cooke.  
Chief Justice.

Dated this 30th day of June 1982.

