**IN THE HIGH COURT OF FIJI**
**AT LAUTOKA**
**CRIMINAL JURISDICTION**

**CRIMINAL CASE NO: HAC 120 OF 2025**

**STATE**

**V**

**JONE VUNIBOLA**

Counsel: Ms S. Swastika for the State
Ms L. Taukei with Ms S. Nand for the Defence

Dates of Hearing: 31 August 2026
Date of Closing Submissions: 4, 15 September 2026
Date of Judgment: 30 September 2026

**JUDGMENT**

1. The Accused is charged on the following information filed by the Director of Public Prosecutions:

COUNT ONE

Statement of Offence

RAPE: Contrary to Section 207 (1) and (2) (c) of the Crimes Act 2009.

Particulars of Offence

JONE VUNIBOLA on the 11th August, 2025, at Saweni, Lautoka, in the Western Division, penetrated the mouth of TULIA LEVUNIA, with his penis, without her consent.

COUNT TWO

Statement of Offence

WRONGFUL CONFINEMENT: Contrary to Section 286 of the Crimes Act 2009.

Particulars of Offence

JONE VUNIBOLA on the 11th August, 2025 and the 12th of August 2025 at Saweni, Lautoka, in the Western Division, wrongfully confined TULIA LEVUNIA.

COUNT THREE

Statement of Offence

CRIMINAL INTIMIDATION: Contrary to Section 375 (1) and (2)(a)(i)(iv) of the Crimes Act 2009.

Particulars of Offence

JONE VUNIBOLA on the 11th August, 2025, at Saweni, Lautoka, in the Western Division, without lawful excuse, threatened TULIA LEVUNIA by uttering "I will kill you" with the intent to cause alarm to the said TULIA LEVUNIA.

COUNT FOUR

Statement of Offence

ASSAULT CAUSING ACTUAL BODILY HARM: Contrary to Section 275 of the Crimes Act 2009.

Particulars of Offence

JONE VUNIBOLA, on the 12th August, 2025, at Saweni, Lautoka, in the Western Division, unlawfully assaulted TULIA LEVUNIA by punching her chest.

2. The Accused pleaded not guilty to all the counts. At the ensuing trial, the Prosecution adduced the evidence of the Complainant and three other witnesses and closed its case. The Accused was put to his defence when the Court found he had a case to answer. Only the Accused presented evidence for the Defence. At the end, the Counsel made written closing submissions. Having carefully considered the evidence presented at the trial and the submissions made by counsel, I now proceed to pronounce my judgment as follows.

3. The Prosecution bears the burden to prove all the elements of each offence. That burden must be discharged beyond a reasonable doubt. The burden of proof never shifts to the Defence at any stage of the trial. The Accused is under no obligation to prove his innocence or prove anything at all.

4. On the first count, the Accused is charged with Rape contrary to Section 207 (1) and (2)(c) of the Crimes Act. Section 207(2) (c) defines the offence of Rape as follows: a person rapes another person if the person penetrates the mouth of the other person to any extent with the person's penis without the other person's consent.

5. Accordingly, to prove the first count (Rape), the Prosecution must prove beyond a reasonable doubt:

   (a) the Accused – Jone Vunibola;
   (b) penetrated the mouth of the Complainant, Tulia Levunia, with his penis;
   (c) without her consent; and
   (d) the Accused knew or believed that the Complainant was not consenting or did not care whether she was consenting or not.

6. According to Section 206 of the Crimes Act, the term consent means consent freely and voluntarily given by a person with the necessary mental capacity to give the consent. The submission without physical resistance by a person to an act of another person shall not alone constitute consent. A consent obtained by force, threat or intimidation, etc., will not be considered as consent freely and voluntarily given.

7. To prove count two (Wrongful Confinement), the Prosecution must establish beyond reasonable doubt that:

   (a) the Accused;
   (b) wrongfully and unlawfully;
   (c) confined, restrained, and restricted the Complainant against her will.

8. To prove the third count (Criminal Intimidation), the Prosecution must prove the following elements beyond reasonable doubt:

   (a) the Accused;
   (b) without lawful excuse;
   (c) threatened the Complainant by uttering "I will kill you";

(d) with intent to cause alarm to her.

9. To prove the fourth count (Assault Causing Actual Bodily Harm), the Prosecution must establish beyond any reasonable doubt that;

(a) the Accused;
(b) assaulted the Complainant; and
(c) thereby caused actual bodily harm to the Complainant.

10. I shall now summarise the salient parts of the evidence led in this trial

Evidence for Prosecution

PW 1- Tulia Levunia (The Complainant)

11. Tulia is a 29-year-old single mother who lives in Matawalu with her mother, siblings, and son. In August 2025, she worked as a bartender at Spartans Nightclub and did the night shift from 5 pm to 1 am.

12. On 11 August 2025, she knocked off around 1 am or 2 am. Before knocking off, she was in contact with Jone, with whom she had been in a relationship for more than a year. Jone asked if he could come and pick her up. By that time, the relationship with Jone was not good and trying to end it. Still, she accepted his offer because she wanted to give him a chance to fix things up, and he also agreed to pay the fare to drop her off at home in Matawalu.

13. When they got in the cab, Jone told the driver to drop them at Saweni. She did not want to go to Saweni. She told Jone to drop her off. Jone asked if they could spend the night with him, and then he would drop her home the next morning. She agreed.

14. Jone took her to a half-built abandoned house in Saweni. It had an entry door and three rooms, each room having a door. They spent the night there and had consensual sex. After having sex, they slept.

15. As soon as she woke up the next morning, she asked if she could leave because she had to see her son and work in the afternoon. Jone didn't want her to leave. When she kept urging him, he didn't like it, started arguing and threatened her. He went to the point where he strangled her neck with an electrical wire. He said he would kill her there and would go to her place and kill her family. She was scared.

16. He then grabbed and pulled her head down to his private parts and made her suck his penis for about two minutes, and then he forced her to have sex with him. He sat on the old couch at that time, and she was on her knees. She had no choice but to do what he wanted her to do because she feared that he would hurt her.

17. She was hungry and started complaining. Jone said they could go out and find something to eat when it got dark. He wouldn't let her out of the house on her own. There was an old bed in the room. He pulled it towards the door to block the way so she couldn't get out.

18. When it got dark, he took her out to the bushes to get guavas and bair (berries) to eat. But she didn't want to eat those fruits. She did not go out on her own because he threatened her that if she tried to do something, he would hurt her. From past experiences with him, she knew what he was capable of doing.

19. They came back into the house. She lay down to sleep. But she couldn't sleep; she was trying to figure out how to get out of that house. While Jone slept, blocking the door, she thought of taking something and hitting him with it to escape.

20. On the night they arrived at the house, Jone took her phone. The next morning (12 August 2025), Jone was still holding on to her phone, insisting that she unlock it for him. She didn't want to unlock it. Jone got angry, and he started hitting her on her chest and ribs with his

fist. She was hurt and scared. Finally, she had to unlock the phone. He started going through it and got angry when he saw photos of her son's father on her phone. He threatened again that he wouldn't let her go.

21. She had not eaten and was weak. He said they should go and look for something to eat. Then he accompanied her to check for a shop and walked up to the Superfood Supermarket at Saweni. When they reached the back of the supermarket, Jone called a boy because he didn't want them to go into the shop.

22. While Jone was talking to the boy, she quickly proceeded to the shop. Jone started calling her. She was scared and shaking. Without responding to Jone's call, she ran into the supermarket, where there were a lot of people and tried to find somebody with a phone. She saw Mosese, a boy from Namoli, whom she knew. She borrowed Mosese's phone and tried calling her mom.

23. The staff told her that the police were outside. Mosese took her to the police. She told the police that she was being kept in an old house by Jone for almost two days without anything to eat. The police officers told her to get in the police car so they could look for Jone. They saw Jone walking up the highway. They loaded Jone into the car and went to the police station, where she reported the incident. She was then taken for a medical examination.

24. When Jone was remanded, he called her and asked if she could come to see him. She went and saw him in prison. After he came out, Jone called her again and said he wanted to see her. She saw him again in February 2026. They were seeing each other casually because she still had feelings for him. She was assaulted several times. When Jone assaulted her in front of her son, she reported the matter to the police.

25. Under cross-examination, Tulia said that, in August 2025, they were living separately, but on talking terms. She could not recall if Jone came to her house at Matawalu on 6 August 2025. When her statement was shown, she agreed that Jone had come home that day. She denied planning to meet Jone on 11 August 2025 when they met at Matawalu, but she

admitted agreeing to meet him again. Before getting into the cab, she did not know that Jone wanted to take her to Saweni. She did not stop the driver or inform him that she did not want to go to Saweni, but she started arguing with Jone. She admitted she willingly walked with Jone to the abandoned house where they used to go to drink, spend time and have sex.

26. She agreed that she had taken food from home. She didn't feel like eating that night. Jone had eaten the food. She denied that she took food from home because she had planned to go with Jone to this abandoned house to have sex.

27. When Jone went to sleep, she didn't try to escape because the bed he was lying on blocked the way. She admitted that Jone asked her to accompany him to the house he was renting to change her clothes, but she did not go to that house. She admitted to accompanying Jone to a place opposite to get water. He did not complain to the person in that house because Jone had threatened her.

28. She admitted to arguing with Jone a long time ago when she saw a photo of Jone with another girl on Facebook. When the phone was unlocked, Jone asked her whether she was still seeing her child's father. She denied that she initiated the act where she sucked his penis when Jone got angry.

29. There was only one entrance to the house. The main entrance led to one room, and then to another room, and then to the third room where they were. She didn't try to open the door because it creaked and made noise when opened. Even if she tried to escape, she wouldn't make it out without him hearing her, and she feared what he would do if he caught her trying to escape. Although Jone was sleeping, he was aware of her movement.

30. She could not sleep because dark thoughts were coming into her mind. She was awake for a couple of minutes and fell asleep. She denied staying in the house because she wanted her phone back. She admitted that she didn't say to Mosese and IP Simione anything about being raped when she first confronted them. She didn't give full details because she didn't want people to know her business. But she told the police at the Police Station. She agreed that

she went to see Jone in Rakiraki and maintained contact with him because she had feelings for him, but she didn't want to continue the relationship.

31. He kept calling her and asked her to see him at the remand centre to sign papers to withdraw the complaint and close the case. She agreed that she would not want to see him again after being raped. But she continued wanting to see him. She sustained injuries when Jone hit her on her chest. There were no injuries on her neck from strangulation with the wire. There were suction marks, or love bites, on her neck after consensual sex.

32. She did not tell the full story near the supermarket because she was scared. But she later told the police at the police station. Every single time they talked, Jone asked her to withdraw the case. When she was assaulted, she thought it was not the right thing to do to withdraw the case.

PW2 - Mosese Tavutu

33. Mosese is employed in the loading area at Superfoods Supermarket in Saweni. On 12 August 2025, he was unloading stuff at Saweni. A girl cried, approached him and asked for his phone to make a call. She is from Namoli and related to him. He gave her his phone to make a call. She told him that she was raped at an abandoned house in Saweni. She looked dry, had marks on her wrists and love bite marks all over her neck. He and another boy looked around for the boy, but they could not find him. There was a police vehicle that was parked at Saweni. He took her to that police vehicle, where police officer Simi was. He told the police that she was raped. The police officer made her get into the vehicle, and they went to look for the guy.

34. Under cross-examination, Mosese admitted that the girl who approached her told him that she had been confined in a house in Saweni and not that she had been raped. Then he said he heard her say that she was confined at a place in Saweni and also that she was raped.

PW3 Inspector Simone Ravouvou

35. On 12 August 2025, he was attending to a report at the crime scene at Saweni Top near a supermarket. Two men from Namoli village approached him to inform him that an iTaukei woman was in need of help. He contacted the police fleet and quickly left with the lady to identify the likely suspect. The lady stated in the police vehicle that she was being confined and tied inside a room in an empty house at Saweni by her partner. They located the suspect on the Queen's Main Road. The suspect identified himself as Jone. He cautioned Jone and proceeded to the station.

PW4 - Dr Salome Daunivalu

36. Dr Salome is currently based at the Medical Services Pacific in Lautoka. On 12 August 2025, she examined Tulia Levunia and prepared a medical report which she tendered in evidence (PE1). In D-10 of the report, she recorded the history provided by the patient. The patient was scared and emotional, mostly in tears when recollecting her story. She also appeared dehydrated and weak.

37. She described the specific medical findings recorded in D-12. Upon external examination, she found suction marks on the patient's neck and tenderness on her chest and left ribs. She elicited pain on the left side of the rib upon palpation. There was a scar on the lower abdomen. On the genitalia, there was redness and abrasion noted at the lower vulva, mainly at the labia minora. She concluded that the patient had been subjected to sexual and physical abuse. There is a high possibility that the patient sustained tenderness on the chest if she was punched in that area.

38. Under Cross-examination, Dr Salome agreed that the appearance of dehydration and weakness is possible if someone worked late hours and was exhausted. If the person penetrating is holding onto the breast, is fiddling with the breast or caressing the breast, it could also lead to tenderness if it's being held tightly with extensive force. But the tenderness was observed on the chest and the ribs.

Evidence for Defence

DW 1- Jone Vunibola (28)

39. Jone was in a relationship with Tulia from 2023 to 2024. It was not good because she was judgmental toward him and made all decisions on her own. For 6 months, they were renting together in Saweni. One week before the alleged incident, they separated. He remained in Saweni while she went to Matawalu. But they were still in contact.

40. On 11 August 2025, he was at his cousin's place in Matawalu. Tulia told him to wait for her at around 11 pm after she knocked off. After 2 am, he met Tulia at Spartan Nightclub before going to Saweni as planned. When they were waiting for a vehicle at Tappoos, she knew she was going to Saweni with him. They went to Saweni Feeder Road, where they were renting a house on the same road and walked to an empty house where they used to drink and have sex.

41. She had bought a few drinks from Spartan and food from home. They also bought food on the way from Saweni. They drank, ate, had sex, and then slept. Tulia was okay. They woke up after 9 am. That abandoned house has three doors. All those doors are bad. He slept on the bed, and she slept on the couch. His bed was positioned far from the door, which was open. After she woke up, they conversed. She wanted to go to the house they were renting to change her clothes. When they left the empty house for the house they were renting, they ate guava on the way and stood there for a while. At the guava tree, he told Tulia that the landlord at the place where they were staying did not like her anymore after the police came home to investigate an assault complaint lodged by Tulia. Then she didn't want to go to that house. Instead, they went to a shop and bought tuna and biscuits. They returned to the empty house, where they spent the whole day.

42. While they were there, they went to fetch water from a neighbour's house and charge her phone. They returned to the empty house, and he asked to see her phone. She refused to give him the phone, and they fought over the refusal. He told her she was hiding something from him on the phone. Then she gave him the phone, and he saw a photo of her ex-partner

pictured together. They had an argument where she brought up a photo of him with another girl at the nightclub. Then he threatened to leave her right then if she was lying to him. After that, she wanted to have sex with him. She removed her clothes and sat on him, and they had sex.

43. After the conversation, he took her phone and her money, and then they went to Superfood to buy bread and tuna. While standing at the stall on the other side, he told her to go and buy the stuff. She took a long time and did not return. He was shocked when a police vehicle parked in front of him while he was on the main road. Sgt. Simione asked him to get in the car so they could talk at the police station. Tulia was also in the car. He thought she had reported that he had taken her phone and her money. However, he was charged with rape, for which he was interviewed.

44. When he was on remand, Tulia came to visit him when she could not take it anymore. She said she reported him out of anger because he had taken her phone and her money, and he had also threatened her that he was going to leave her. She came to his house in Rakiraki when he was bailed because she still had feelings for him.

45. He denied forcefully making her suck his penis, assaulting her and threatening to kill her on 12 August 2025.

46. Under cross-examination, Jone admitted going to Tulia's place at Matawalu on 6 August 2025. He agreed that Tulia went back to Matawalu when issues arose over the photo she had seen on his phone of him with another girl at the nightclub. He admitted that she brought the police to the place they were renting after complaining that he assaulted her. When he slapped her, her mother had brought the police home.

47. He did not take Tulia to the house they were renting because the landlord did not want her to come back. He denied that the only reason he went to pick her up was that he was trying to make that relationship work. He agreed that he fought with Tulia at Saweni about her ex-partner, whom she would often meet in town. He agreed that he did not state in his

examination-in-chief or in his statement that when they got off, he bought barbecue before walking to the abandoned house.

48. He admitted, in answering question Q 130 at the caution interview, that "*I assaulted my girlfriend, namely Tulia Levunia, which caused injuries on her left side tender ribs*", to confirm the medical report. He said the injury recorded on the medical report was old. At Q132, when he was asked what caused him to assault her, he stated: "*I was asking her if she was hiding something from me, but she kept on denying, which birthed anger in me*".

49. He admitted slapping Tulia out of anger in front of her son whilst on bail in Rakiraki. He took Tulia's phone and money and gave money to buy bread when she was sent to buy bread from Superfood. He did not keep her phone and money to prevent her from escaping or calling anyone asking for help. He kept the phone to leave her on that day and sell it to earn the fare to Suva.

Evaluation/ Analysis

50. The identity of the Accused is not disputed. The Accused admits that the Complainant was in a year-long *defacto* relationship with him before the alleged offence. He also admits that he took the Complainant to an abandoned house in Saweni on 11 August 2025 and was with her till 12 August 2025. There is also no dispute that they had consensual sexual intercourse on 11 August 2025.

51. The Prosecution alleges that the Accused, on 12 August 2025, forcefully restrained her, threatened to kill her, assaulted her and forcefully made her suck his penis. The Accused denies all the allegations.

52. The issue is whether the Complainant told the truth when she said the Accused was engaged in that conduct. The Prosecution relies substantially on the Complainant's evidence and, to support it, called three witnesses, including the doctor who examined the Complainant, to prove the charges.

53. Although no corroboration is required to secure a conviction in a sexual offence case, the Complainant's evidence must be scrutinised closely and weighed against the Defence's version, the medical evidence, any inconsistencies in statements, and the surrounding circumstances to determine where the truth lies. At the end of the day, the Prosecution bears the legal burden of proving the charges beyond reasonable doubt. If the Accused's version raises a reasonable doubt, or if the strict scrutiny of the Complainant's evidence reveals fatal inconsistencies, the Accused must be acquitted.

54. The assessment of the Complainant's credibility and the reliability of her evidence, particularly regarding conduct before, during, and after the alleged acts, is a complex judicial task that must balance the Defence's right to test the evidence against the need to avoid relying on myths and stereotypes.

55. There is no dispute that the relationship between the Complainant and the Accused was deteriorating and the Complainant moved out of their shared rental home in Saweni and relocated to Matawalu a week before the alleged incident took place. The core reason for the relationship breaking down was mutual allegations of cheating (infidelity) on both sides.

56. The Defence claims that, despite the differences, the Complainant chose to go to Saweni with the Accused voluntarily to spend time with him, drink and have sex, as part of a pre-planned arrangement. To support this claim, it was suggested that she brought food from home and that she did not strictly protest that he accompanied her to Saweni.

57. The Complainant denied it was planned. The Defence and the Prosecution present sharply conflicting accounts regarding whether the journey to Saweni and subsequent acts were pre-planned and consensual. While the Defence claims the encounter was arranged and voluntary, the Complainant maintains she was misled about the destination, and the subsequent acts on the 12th were forceful.

58. The Complainant emphasised that she had no intention of going to Saweni. She denied taking food from home because she had planned to go with the Accused; she boarded the taxi under the impression he would drop her at Matawalu, as promised. When she realised he would take her to Saweni, she protested, although she did not stop the taxi driver. She admitted she finally agreed to walk down to the abandoned house when he promised to drop her home in the morning (daylight). She explained she wanted to "give him a chance to fix things up" and frankly admitted that the sexual intercourse on the wee hours of the 11th was consensual.

59. The dispute, according to the Complainant, arose on the 12th when the Accused did not let her leave the house despite her urge. The Complainant stated that she was held against her will when she attempted to leave to see her child.

60. Although the Accused said the Complainant was not held against her will, the Accused's admission that he took her phone and money supports the Prosecution's theory establishing a clear mechanism of control used to prevent her from leaving or calling for help.

61. It was contended that when the Accused fell asleep, she could have escaped. She explained that the bed he was lying on blocked the way. She believed the Accused was aware of her movements, although he seemed to be sleeping. She didn't try to open the door because it made noise when opened. Even if she tried to escape, she wouldn't make it out without him hearing her. She said she did not go out on her own because he threatened her that if she did, he would hurt her. From past experiences with him, she knew what he was capable of. She feared the consequences if he caught her trying to escape.

62. The Complainant admitted that she came out of that abandoned house at least three times. It could be argued that she was not technically confined. However, every time she came out, he wouldn't let her out on her own; the Accused always accompanied her. When she complained of hunger, he waited until it got dark. When it got dark, he took her out to the bushes to pick guava. When she refused to eat guava, he returned. When they went to fetch water from a neighbouring house, the Accused accompanied her. She did not complain to the person in that house because the Accused had threatened her.

63. When the Accused took her to Superfood, he took her to the back, not the front of the supermarket. He called a boy because he didn't want her to go into the shop. While the Accused was talking to the boy, she quickly ran into the supermarket and sought assistance. She complained to Mosese and then to IP Simione that she was confined in a house by her partner.

64. Even though the Complainant physically left the abandoned house at least three times, her freedom of movement was completely restricted. The evidence establishes a classic case for constructive confinement or wrongful confinement through psychological coercion and threats, rather than physical barriers, even when she came out of the house. The continuous presence and threats effectively took away her voluntary agency, explaining why she could not safely complain or escape. In legal terms, confinement does not require a locked door or four walls; it can be established through a reasonable and well-founded fear of injury caused by threats.

65. The Complainant admitted that she didn't tell either Mosese or IP Simione anything about being raped. It was argued that she did not cry out rape at the first available opportunity because she was never raped. This argument relies on the traditional, though increasingly outdated, legal assumption that a victim of a genuine assault will naturally cry out or disclose the crime at the very first available opportunity.

66. The Complainant explained that she didn't give full details because she didn't want people to know her business and that she was scared to tell. It was a public place, which is rarely an environment where a survivor feels safe or comfortable disclosing an intimate and traumatic violation. But she told the police the full story at the Police Station.

67. The evidence of Mosese and Inspector Simione is not discredited. It is consistent with the evidence of the Complainant although it does not disclose a sexual conduct on the part of the Accused. It also supports that the Accused had moved away from the Superfood when the Complainant sought assistance from Mosese and the police. When Mosese looked around

for the Accused, they could not find him. IP Simione confirmed that the Accused was located on the Queen's Main Road. The Accused's post-incident conduct points to his guilty mind.

68. The Complainant's post-incident distressed disposition also supports the allegation she promptly made. Mosese said the Complainant looked dry and had marks on her wrists. Dr Daunivalu confirmed the Complainant appeared dehydrated and weak, scared and emotional, mostly in tears when recollecting her story. The Doctor agreed that the appearance of dehydration and weakness is possible if someone worked late hours and was exhausted. However, the Complainant had knocked off around 2 am on 11 August 2025, and the medical examination was conducted at 2.30 pm on 12 August 2025. Because of this significant time gap, it is highly improbable that her observed weakness and dehydration were lingering effects of working late hours. Instead, this temporal gap reinforces the argument that her distressed state, wrist marks, and physical exhaustion were directly linked to the alleged post-work incident and her subsequent trauma.

69. Dr Daunivalu's medical findings also support the Complainant's evidence. The Complainant said when she refused to unlock the phone, the Accused got angry and started hitting her on her chest and ribs with his fist and she was hurt. She also said she was strangled with a wire. The medical findings are consistent with the Complainant's evidence. The doctor found suction marks on the patient's neck, red and blue in colour, and tenderness on her chest and left ribs, which elicited pain upon palpation. There was also a scar on her lower abdomen. Having conceded that holding tightly onto the breast or caressing the breast with extensive force during sexual activity could also lead to tenderness, the doctor confirmed that the tenderness was not observed on the Complainant's breast but chest and left ribs.

70. The Complainant admitted that she went to see the Accused in remand and in Rakiraki and maintained contact with him even after the alleged incident. It was argued that the Complainant would never have behaved like that if the Accused abused her physically and sexually and that her conduct is consistent with the Defence theory that she was not assaulted and confined.

71. The Complainant explained her conduct. When the Accused was remanded, he kept calling her and wanted her to sign papers to withdraw the complaint and close the case. After he came out, he called her again and said he wanted to see her. They were seeing each other casually because she still had feelings for him, but she didn't want to continue the relationship.

72 This case does not present a situation of an unknown rapist taking advantage of an opportunistic moment. The Complainant in this case had been in a relationship with the Accused for months in which they had consensual sexual intercourse. The evidence revealed that this was not the first time they had fought. The existence of a prior consensual relationship is a factor in "acquaintance rape" cases, which often face more difficult credibility challenges than stranger rapes.

73. Studies indicate that some survivors continue contact with perpetrators for various reasons, including pressure, fear, or manipulation. The argument that a rape victim would never voluntarily place herself/himself in the same situation or with the same perpetrator again is a common defence theory based on stereotypical assumptions about "ideal victim" behaviour. However, research in psychology and victimology indicates that continuing contact, dating, or even engaging in further sexual activity with a rapist is a documented reaction, frequently described as "unacknowledged rape[1]" or a coping mechanism. Research shows that post-assault contact is not uncommon, especially when the perpetrator is an intimate partner or acquaintance[2].

74. I observed the demeanour of the Complainant. She was straightforward and not evasive. I am sure she is honest, and she told the truth in Court.

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[1] Unacknowledged rape is defined as a sexual experience that meets the legal definition of rape, but is not labelled as rape by the victim, either at the time or afterwards. This response is more frequently recognized among victims of acquaintance rape, date rape or marital rape.

[2] Prevalence and Characteristics of Sexual Violence, Stalking, and Intimate Partner Violence Victimization — National Intimate Partner and Sexual Violence Survey, United States, 2011 https://www.cdc.gov/mmwr/preview/mmwrhtml/ss6308a1.htm

75. Let me now turn to the version of the Defence. The Accused maintained that the Complainant knew that he was going to the house in Saweni and that she went willingly. However, instead of going to the house they were renting, the Accused accompanied her to a nearby abandoned house. The explanation given was that the landlord did not want her to be back in that house.

76. However, the Defence failed to put its case to the Complainant during cross-examination, suggesting recent fabrication. Specifically, it was never suggested to the Complainant that the landlord disliked her due to a prior false allegation and subsequent police intervention. If the Accused truly believed the landlord disliked the Complainant, he would have disclosed this information before leaving the abandoned house for the rental house to change her clothes, rather than stopping halfway through the journey by a guava tree to claim the landlord was unwelcoming.

77. I reject the Accused's explanation and accept that he fabricated the story about the landlord to justify taking the Complainant to an abandoned house instead of their actual rental property.

78. It was never put to the Complainant that she had brought drinks from Spartans and they bought BBQ on the way to the abandoned house. It was never put that they went to a nearby shop and bought tuna and biscuits when she refused to eat guava. It was never put that they went to a neighbouring house to charge her phone.

79. The Accused said it was he who had sent the Complainant to the supermarket to buy bread and tuna. He failed to explain why he sent the Complainant without going inside the supermarket himself. The fact that the Accused was arrested on the main road at a distance from the supermarket confirms that the Accused had fled the Complainant.

80. The Accused admitted that he was a violent man. He admitted slapping the Complainant and that her mother brought the police home. He agreed that the Complainant brought the police to the rental house upon being assaulted by him. He agreed that he fought with the Complainant over her relationship with her ex-partner when he took her to Saweni. He

admitted, in his caution interview, assaulting her causing the injuries noted in the medical report. Although the Accused said the injuries noted in the medical report were old, it was not put to the doctor that the injuries were old. He admitted slapping the Complainant in front of her son whilst he was on bail in Rakiraki.

Conclusion

81. The version of the Defence is not appealing to me. It does not create a reasonable doubt in the version of events of the Prosecution, which is unshaken. I reject the evidence of the Accused, which is implausible and self-serving. There is no basis for the contention that the Complainant fabricated the allegation because the Accused had taken her phone and money and he had threatened to leave her if she continued to hide her affiliation to her ex-partner. The rejection of the Defence version, however, does not prove the charges. The Prosecution has to prove its case beyond a reasonable doubt.

82. The Complainant is consistent, credible and reliable. Her demeanour is consistent with her honesty. I accept she told the truth in Court when she said that, after the Complainant left the Accused, he took her to an abandoned house under a false pretense and wrongfully confined her, threatened to kill her, assaulted her and forcefully penetrated her mouth with his penis. The Prosecution discharged the legal burden beyond a reasonable doubt.

83. The charges are proven beyond a reasonable doubt. The Accused is found guilty on each count as charged, and a conviction is recorded accordingly.

Aruna Aluthge

Judge

30 September 2026

At Lautoka

Solicitors:

Office of the Director of Public Prosecutions for the State
Legal Aid Commission for the Defence