

Public Prosecutor

AND

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(High Court of Brunei Darussalam)
(Criminal Trial No. 4 of 2024)

Muhammed Faisal Bin PDJLD Kol(B) DSP Hj Kefli, J.C

Date of Judgement: 2nd September 2025

Headnote: Rape – Child under 14 – Partial penetration sufficient – Child witness – Unsworn evidence – Section 133A Evidence Act – Corroboration – Complaint to mother – Section 157 Evidence Act – Medical evidence – Redness at vaginal entrance – No hymenal tear – No semen – Credibility of complainant – Conduct of accused – Apology when confronted – Defence of denial and alibi – Alibi not made out – Burden of proof – Prosecution case proven beyond reasonable doubt

DPP Syazwani Binti Jumat for the Public Prosecutor.
Defendant In Person.

Statutes:

Section 117C of the Criminal Procedure Code, Chapter 7

Section 375 of the Penal Code Chapter 22

Section 376(2)(b) of the Penal Code Chapter 22

Section 133A of the Evidence Act Chapter 108

Section 134A of the Evidence Act Chapter 108

Section 157 of the Evidence Act Chapter 108

JUDGMENT

Muhammed Faisal, J.C.:

I Introduction

1. The defendant faces a single charge of rape, punishable under Section 376(2)(b) of the Penal Code (PC)
2. He entered a not guilty plea and claimed trial.
3. This is the judgment pursuant to that plea and the evidence adduced during the trial.

II The Charge

4. The charge (*Exp1*) is as follows:

“That you, sometime in May 2023, at a house addressed at (address redacted) in Brunei Darussalam, did commit rape on Miss X (Name redacted), female, D.O.B 07.02.2015, 8 years old), a woman under the age of 14 years old, by having sexual intercourse with her, and you have thereby committed an offence punishable under Section 376(2)(b) of the Penal Code, Chapter 22.”

III **The Law**

5. In every criminal prosecution, the burden of proof lies upon the prosecution to prove its’ case against the defendant. This does not shift. The standard of proof with which the prosecution must achieve is that of beyond reasonable doubt. If it fails to achieve this standard, then this court shall return a verdict of not guilty.

6. Section 375 Penal Code reads: -

“A man is said to commit "rape", who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the following descriptions –

(a) against her will;

(b) without her consent

(c) ...

(d) ...

(da) ...

(e) with her consent when she is under the age of 14 years.”

7. Penetration is sufficient to constitute the sexual intercourse necessary for the offence of rape¹. It is not necessary for complete penetration; partial penetration of the private part into the women would suffice². It is also not necessary that the hymen be ruptured³.

8. Section 133A Evidence Act CAP 108 reads: -

“Evidence of child. [S 29/97]

133A. (1) Where, in any proceedings against any person for any offence, any child called as a witness does not in the opinion of the court understand the nature of an oath, his evidence may be received, though not given upon oath, if, in the opinion of the court, he

¹ Section 375 Criminal Procedure Code, **Explanation 1**

² V Murugesan v PP [2006] SLR (R) 388 at pp 394 para 18 / Annexed to Prosecution’s final submission

³ Id

is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

(2) Where evidence admitted by virtue of this section is given on behalf of the prosecution, the accused shall not be liable to be convicted of the offence unless that evidence is corroborated by some other material evidence in support thereof implicating him."

PW6 gave unsworn evidence. Thus, corroboration is necessary for a conviction.

9. Section 134A Evidence Act CAP 108 reads: -

"An Abolition of corroboration rules.

Any requirement whereby at a trial it is obligatory for the court to give a warning about convicting the accused on the uncorroborated evidence of a person merely because that person is

(a) ...

(b) where the alleged offence charged is a sexual offence, the person in respect of whom it is alleged to have been committed,

is hereby abrogated."

10. Any previous statements of the victim with respect to the offence would constitute as corroboration. This is not only written but also to include oral statement, under oath or in ordinary conversation.⁴

IV **Agreed Facts**

11. A *Statement of Agreed Facts* was signed by parties before trial commenced (*Exp2*). The redacted version is reproduced below:

STATEMENT OF AGREED FACTS

By virtue of Section 117C of the Criminal Procedure Code, Chapter 7, the Prosecution and the Defence agree as follows:

1. The Defendant is a 51-year-old male, Bruneian national. At the material time, he was self-employed as a grass-cutter and a lumberjack for coconut trees

FIRST INFORMATION REPORT

*2. On 28th May 2023, at about 1515 hrs, one (**name redacted**) (F43) lodged a Report of Complaint at Tutong Police Station. The Report of Complaint was then prepared by L/Cpl 6342 Zairol Raffizzan Mohd Nor, the F.I.R on-standby and it was printed out at 2218 hrs on the same*

⁴ See Section 157 Evidence Act CAP 108

day [the Report of Complaint dated 28th May 2023 @ 1517 hrs (TT/CR/195/2023) is annexed and marked herewith as 'Appendix A'1.

3. On 28th May 2023, at about 1552 hrs, L/Cpl 4859 Muhd Haziman bin Abu Bakar started to record the Complainant's statement in the Assisting Investigating Officer Room, Tutong Police Station. On the same day, at about 1650 hrs, WCPL 4769 recorded (**name redacted**) statement in the Investigation Room, Tutong Police Station.

4. On the same day, at about 1755 hrs, the Complainant was instructed to bring the said (**name redacted**) to Tutong Hospital for medical examination. On the same day, at about 2028 hrs, (**name redacted**) was brought to Raja Isteri Pengiran Anak Saleha (RIPAS) Hospital from Tutong Hospital using a motor vehicle bearing the registration number BG 1020 for further medical examinations. (**Name redacted**) was escorted by W/Cpl 4769 Masdinawati binti Gumpol. L/Cpl 4859 Mohd Haziman bin Abu Bakar and L/Cpl 6410 Mohammad Rasul bin Abdul Rasheed also went to RIPAS Hospital using a motor vehicle bearing the registration number BG 3897

ARREST REPORT

5. On 29th May 2023, at about 1939 hrs, the Defendant was arrested by WSGT 4174 Iffah Azzahra binti Abdullah, L/Cpl 5848, L/Cpl 5945, L/Cpl 6407 and PC 6226 [the Report of Complainant pertaining to the Defendant's arrest is annexed and marked herewith as ' **Appendix B**'].

6. On 30th May 2023, at about 1030 hrs, Sgt 4256 Hj Jeffry bin Hj Jumat @ Suhalili. Recorded the Defendant's statement at Investigating Officer room, Team "A" and Sgt 4256 Hi Jeffry bin H Jumat @ Suhalili finished recording the Defendant's statement on the same day, at about 1200 hrs.

7. On the same day at about 1400 hrs, Sgt 4256 Hi Jeffry bin Hi Jumat @ Suhalili., WCpl 4918 Sofiza Ashikin binti Awg Yusof, WL/Cpl 5120 Atiahdiwana, L/Cpl 5516 Marni Diyana binti Sahat and Crime Scene Unit team on-standby consisting L/Cpl 6680 Muhammad Sharkawi bin Abdullah and WL/Cpl 5750 Nurul Apidah binti Tonggal went to the place of incident addressed at (**address redacted**), Penanjong, Tutong in Brunei Darussalam.

FAIR SKETCH PLAN

8. On the same day, L/Cpl 6680 Muhammad Sharkaw bin Abdullah received instructions from Sgt 4256 Hi Jeffry bin Hj Jumat @ Suhalili draw rough sketch plan at the place of incident. L/Cpl 6680 Muhammad Sharkawi bin Abdullah then prepared a fair sketch plan based on the rough sketch plan that he had prepared on 30th May 2023 at about 1456 hrs (the fair sketch plan is annexed and marked herewith as 'Appendix C'].

9. All the documents from the investigation including Appendix A, Appendix B and Appendix C are then compiled by the Investigating Officer, Sgt 4256 Hj Jeffry bin Hj Jumat @ Suhaili, to be referred to the DPP on-standby at Criminal Justice Division, Attorney General's Chambers

LIST OF DOCUMENTS OF AGREED FACTS

The following documents are hereby agreed to be tendered without calling the maker of such documents:

Appendix	Documents	Marked as
A	The Report of Complainant (TT/CR/195/2023) dated 28th May 2023 @1517 hrs	Ex. P4
B	The Report of Complainant (TT/CR/200/2023) dated 29th May 2023 @ 1950 hrs	Ex. P5
C	Fair Sketch Plan dated 30th May 2023 @ 1456 hrs	Ex. P6

V Prosecution Case

Background

12. The prosecution called 7 witnesses. Which included PW6, her parents, police witnesses and the medical doctor who examined PW6.
13. The victim, (PW6), is the daughter of PW4, from her third marriage to *OA Bin A @ KP*. Due to domestic issues, including physical abuse by *OA* towards PW4, PW6 lived with PW4 at her sister's home in Kampong (redacted) before *OA*'s imprisonment in January 2019 for drug offences.
14. On 28th May 2023, at about 1.30 p.m., PW3, and his wife, PW4, attended a birthday celebration for PW4's two other children, at Penanjong Beach, Tutong. The event was organised by PW4's sister.
15. Before proceeding to the beach, they, accompanied by another of PW4's son, went to the home of PW4's former husband, *OA*, to collect PW6.
16. During the journey, PW3 observed that PW6 appeared weak, unusually quiet, and less cheerful than normal, in contrast to her usual talkative and inquisitive nature. PW4 also noticed at the celebration that PW6 was moody, scared, and withdrawn, sitting apart from her siblings and avoiding interaction. When invited to eat, she declined.
17. PW6 later approached PW4 and asked to return to live with her, stating she was afraid. On being questioned, she said she was afraid of "Uncle K___g," later identified as the defendant, *OA*'s adoptive cousin. PW6 appeared restless, looked around frequently, cracked her fingers, and indicated that her private area was in pain. She repeated that she was afraid of "Uncle K___g" but did not elaborate further.

18. PW4 relayed this to PW3, and both decided to look for the defendant. They went first to his father's house in Kampong (address redacted) but did not find him. Villagers informed them he was nearby, collecting coconuts. PW3 approached the defendant and twice told him to get into their car. The defendant eventually complied. PW3 noted that the defendant appeared scared and restless, remaining silent during the drive back to Penanjong Beach.
19. At the beach, PW3 parked the vehicle and told the defendant to get out. In the presence of family members, including PW6, PW3 asked the defendant what he had done to his stepdaughter, grabbing him by the shirt collar. The defendant apologised, saying, "I'm sorry, Boi." PW3 then punched him once in the face, causing him to fall to the ground. PW4 intervened to prevent further violence, fearing the situation would escalate. Relatives told PW3 to let the defendant go, and he fled. PW4 warned him to remember what had happened, to which he responded, "Uh-huh, uh-huh."
20. Later that day, PW3 and PW4, together with PW6, lodged a report at Tutong Police Station.

Investigations

21. The Investigating Officer (I/O) was S/Sgt 4256 Hj Jeffrey bin Hj Jumat (PW7) of the Women and Child Abuse Unit, Criminal Investigation Department.
22. On 29th May 2023, PW7 directed that statements be taken from the victim (PW6), her mother (PW4) and other witnesses. That evening, the defendant was arrested at Tutong Police Station and handed over to PW7, who arranged for a urine test and a Police 9 medical examination at RIPAS Hospital, before placing him in remand.
23. On 30th May 2023, PW7 recorded the defendant's statement. Later the same day they visited the alleged crime scene at with members of the Crime Scene Unit. The victim indicated the location. PW1, W/L/Cpl 5750 Nurul Apidah binti Tonggal, photographed the scene, while L/Cpl Muhd Sharkawi prepared a rough sketch.
24. On 22nd June 2023, PW1 compiled an album of 18 captioned photographs based on the sketch. PW7 obtained the preliminary investigation documents from Tutong Police Station and the Police 9 medical report dated 17th June 2023 by Dr Hla Myat Mo (PW2), which recorded redness on the victim's genitals possibly caused by penetration. The investigation was based on the victim's testimony, supported by her mother's account and the medical findings.

Medical Evidence

25. PW2, an Associate Specialist in Obstetrics and Gynaecology at RIPAS Hospital with over 23 years' experience, examined 8-year-old PW6 on 28th May 2023 at the paediatric ward after an initial assessment by a Child Protection Medical Officer. She

observed redness around the vaginal entrance but no hymenal tear and collected vaginal swabs for forensic testing. The results from the Consultant Forensic Pathologist were negative for spermatozoa and PSA. In her opinion, the injuries could have been caused by penetration at the labia but outside the hymen, possibly by fingers, other objects, or partial penetration. She later recorded her findings in the Police 9 Medical Report on 17th June 2023.

26. PW2's evidence in court expanded on the contents of her earlier statement under section 117B. In her written statement, she confined her observations to redness around the vaginal entrance, absence of hymenal tear, and her opinion that this could be caused by penetration at the labia but outside the hymen by fingers or other objects, or by partial penetration. She did not refer to any time frame for the injury, the shape of the affected area, or the type of object that might have caused it, beyond the general reference to "fingers or other objects."
27. In court, however, PW2 provided further details not mentioned in her 117B statement. She estimated that the penetration or partial penetration had occurred within one to two days prior to the examination, explaining that the redness was an acute condition which would fade after a few days. She also described the redness as symmetrical and circular around the vaginal entrance, and said that it could have been caused by a circular object, giving as examples a penis, a finger, or other soft objects of similar consistency. She further distinguished between two possible scenarios — partial penetration of the hymen, or penetration of the labia outside the hymen — and explained how either could occur without a hymenal tear.
28. When questioned in *cross-examination*, PW2 accepted that some of these points, particularly the alternative scenarios and the more specific references to possible objects, were not considered at the time of her examination. She explained that she thought about them afterwards, following preparation of her statement, and added them to her opinion at that stage. Accepting her explanation, the differences between her statement and testimony appear to arise from later reflection on her findings rather than from any change in the core factual observations made at the time of examination.

Video Evidence

29. PW5 is Cpl 4921 Tirshata Mashaleno binti Prait. She is stationed at the CID Women and Child Abuse Unit, Criminal Investigation Department (CID), and has been working there since 2006. Her role in this case was as the interviewing officer tasked with recording the victim's account on video.
30. On 29th May 2023 at 17:24 hrs, PW5 conducted a video-recorded interview with PW6. The interview was held in the recording room, 1st Floor, Women and Child Abuse Unit,

CID HQ, Gadong. Only PW5 and PW6 were present; PW5 both conducted the interview and handled the camera. The interview lasted 13 minutes.

31. After the interview, PW5 prepared a transcript of the recording on 1st June 2023 at 14:30 hrs. She handed the transcript to PW7. The transcript was marked as *Exhibit P14*, and the video recording as *Exhibit P13*.

PW6 Evidence

32. PW6 testified via video link. She gave unsworn evidence. She was 10 years old at the time and was in Year 2 of primary school.
33. She explained that the Defendant had “inserted his nunuk (penis)” into her private part. She stated this happened in May 2023, at her grandparent’s house.
34. She said she was laying down in the living room when it occurred. Before the assault she was dragged by her leg from a chair to the living room carpet. She told him “please don’t” but he proceeded. Her father was sleeping on the brown couch in the same room. She described that the defendant removes her pants and also his own before inserting his penis into her private part “briefly”. She said it was painful, and shouted, but the defendant did nothing in response.
35. In the recorded video interview (Exhibit P13) she had demonstrated the act using dolls identifying one as herself and the other as “Uncle K___g”. She pointed to the penis of the doll to show what happened. She identified photos of her grandmother’s house showing the chair, couch, and carpet at living room floor where it occurred.
36. PW6 disclosed to her mother and stepfather what had happened to her at a birthday celebration at the beach. She repeated that she was afraid of “Uncle K___g” and did not want to see him. She later told the doctor together with her mother and stepfather that “Uncle K___g” inserted his penis into her private parts.
37. In court, although visibly scared she identified the defendant as “Uncle K___g”.
38. In *cross-examination*, the defendant suggested that he was not at the house on the 27th of May 2023, claiming he was elsewhere with another person. However, PW6 disagreed, maintaining that both her father and “Uncle K___g” with her that day. PW6 further stated that she was neither in school nor in religious class on that day.
39. It was further suggested by the defendant that PW6 had been told to accused him which she denied.
40. When asked directly whether the accused did those acts to her, PW6 affirmed her allegation.

VI Defence

41. The defendant elected to give sworn evidence. His defence, in essence, is one of denial supported by an alibi. He further challenges the reliability of the prosecution's case, directing particular criticism at the evidence of PW6, her mother, and the examining doctor.
42. He is 52 years old, divorced, and lives alone. He works doing odd jobs such as house cleaning and collecting coconuts.
43. He stated that on 27th May 2023, the date of the alleged offence, he was at his cousin's house in Kampong (redacted), working from morning until 6.00 pm. He claimed he returned home shortly after, prepared dinner, and went to bed by 7.30 pm. He repeated that he did not go to PW6's house on that day.
44. He further testified that on 28th May 2023, while at work, he was approached by PW6 mother (PW4) and her husband (PW3) who took him to Penanjong Beach. There, PW3 confronted and assaulted him, accusing him of doing something bad to PW6. He stated that PW3 choked and punched him, and that he only apologised in order to avoid further harm, not as an admission of guilt.
45. The defendant also gave evidence about his subsequent arrest and interrogation. He claimed that he was handcuffed, punched in the stomach, and threatened by police officers. He maintained that he denied the allegation when questioned, and that he only learned the full nature of the charge after his statement was recorded.
46. In support of his denial, the defendant placed reliance on the medical evidence. He pointed out that no semen was detected and that there was no hymenal tear, only some redness at the entrance of the vagina, which, he argued, could have been caused by other means. He maintained that if rape had taken place, there would have been more significant physical findings.
47. In *cross-examination*, the defendant accepted that in his original statement to police, he did not mention that his cousin, DW2, was working alongside him on 27th May 2023, although he later claimed this in court. He also admitted that Dw2's house was within walking distance of OA's house, where PW6 had been living, and that he had previously assisted OA's family with errands.
48. He accepted that during the journey to Penanjong Beach he had remained silent and appeared afraid, but explained this by saying he was worried his absence from work would be noticed by his employer. He denied that his silence and apology were evidence of guilt.
49. He further disputed whether PW6 was genuinely afraid of him when testifying by video link, maintaining he had never harmed her. He agreed she had no reason to

fabricate the allegation, but suggested her suspicions were influenced by her mother after she observed redness on the child.

50. The defendant's position remained consistent: that he did not commit the offence, that his apology was made under duress, and that the medical findings did not corroborate the allegation.

Alibi witness

51. DW2, aged 55, works as a vehicle electrician at Penanjong Camp and resides in Kampong (redacted). He confirmed that he knows the defendant, who is his cousin, and that the defendant had been working on and off for his family since his late father's time, usually when help was needed.
52. DW2 testified that on 27th May 2023, the defendant was at his father's old house from morning until about 6 p.m., cleaning the compound. He recalled assisting the defendant "a little bit" but said he was not with him throughout the day, as he was unwell and often inside the house. He maintained that when the defendant finished at around 6 p.m., he was present inside and asked the defendant if he was done, to which the defendant replied yes.
53. He said he had given his police statement voluntarily on 7th June 2023, after being contacted by the police because the defendant had named him as a bailor. He explained that the village head had also asked him to assist. He denied being pressured into giving his statement and said he had not spoken to the defendant before providing it.
54. Under *cross-examination*, DW2 admitted that because he was not with the defendant all the time, he could not know his movements throughout the day. He confirmed that OA's house, where PW6 was living, was only about 500 metres away from his own, a distance that could be covered in around four minutes on foot. Thus, he accepted that the defendant could have gone there without his knowledge.
55. Under *cross-examination*, DW2 admitted that because he was not with the defendant all the time, he could not know his movements throughout the day. He confirmed that OA's house, where PW6 was living, was only about 500 metres away from his own, a distance that could be covered in around four minutes on foot. Thus, he accepted that the defendant could have gone there without his knowledge.

VII Discussions

Credibility of victim and corroboration

56. The Prosecution witnesses remained consistent both in examination-in-chief and under cross-examination, it was submitted that they were credible witnesses who ought to be believed.

57. On 28th May 2023, her mother, PW4, noticed a marked change in her demeanour; she was unusually withdrawn, uneasy, and not her cheerful self. PW6 expressed a wish to live with her mother again because she felt afraid, and repeatedly said she was scared of “Uncle K___g,” the accused. She also complained of pain in her genital area, pointing to it when asked, and displayed physical signs of distress such as restlessness, glancing behind her, and cracking her finger joints. This is corroborative evidence support PW6 testimony.
58. PW4 immediately relayed this to her husband, PW3, who together with PW4 confronted the accused. Both PW3 and PW4 testified that during the journey in PW3’s vehicle, the accused appeared anxious, restless, and said nothing. When confronted by PW3 at Penanjong Beach, the accused apologised instead of denying the allegation. The Prosecution submits that this reaction was consistent with consciousness of guilt.
59. Further, PW4 gave evidence that the accused had free access to the house where PW6 was residing at the time, as her biological father’s ill-health meant that he frequently relied on the accused to assist with errands and household matters.
60. PW6’s immediate complaint to her mother is admissible as corroboration within Section 157 of the Evidence Act, and that additional corroboration is also found in PW4’s observations of her child’s distressed condition, PW6’s abnormal behaviour on that day, and the conduct of the accused when confronted. Together, these circumstances provide support to PW6’s testimony and reinforce her credibility.

Defendant’s alibi evidence and testimony

61. The defendant’s case amounts to no more than a bare denial. His principal line of defence was that he never committed the offence because he was not present at the scene, maintaining instead that he spent the entire day of 27th May 2023 at the home of DW2, where he was engaged to clean the compound. In support of this alibi, the defendant called Dw2 to give evidence.
62. DW2’s testimony was of limited value; while DW2 confirmed that the defendant was at his house on the morning and afternoon of the material day, he conceded in *cross-examination* that he was not always with the defendant, owing to his own medical condition which confined him indoors. Thus, he was not in a position to know of the defendant’s movements throughout the day. Moreover, DW2 accepted that his house was located only some 500 metres, or a four-minute walk, from the place of incident. The Prosecution argued this left the defendant with both the time and opportunity to leave DW2’s house and commit the offence.
63. DW2’s testimony contradicted that of the defendant; whereas the defendant claimed that he was with DW2 continuously until 6.00 p.m. and that DW2 helped him with the cleaning work, DW2 did not state that he was with the defendant at all times, nor that

he had assisted with the work. There was also inconsistency in their accounts of distance to the scene; DW2 estimated four minutes on foot, while the defendant said twenty to thirty minutes.

64. It was pointed out that when PW3 and PW4 took the defendant to Penanjong Beach, the defendant remained silent, anxious, and did not question why he was being taken, which was argued demonstrated consciousness of guilt. His explanation that it was “normal” for PW3 to fetch him to sell coconuts was dismissed as implausible, as neither he nor Dw2 had ever said coconut-selling formed part of his employment.
65. It was also submitted that it was illogical for the defendant, if innocent, to have responded with an apology when confronted by PW3, rather than a firm denial or demand for explanation. However, the Defendant explains that he apologised only to escape violence, as he was assaulted by PW3. His silence and nervousness were due to fear of losing his day’s wages and concern about what his employer would think, not guilt over wrongdoing.
66. The defendant’s reliance on the absence of semen or bodily fluid may be misconceived, as penetration could occur without ejaculation. In this case there was medical evidence of redness around the entrance to PW6’s vagina which was consistent with penetration.
67. With respect to the defendant’s claim that he remained silent because he was worried about what to tell DW2, does not make sense as he could easily have explained his absence to DW2 directly or by telephone. His silence, is argued a reflection of his preoccupation with the consequences of his actions towards PW6.
68. It seems that the defendant’s alibi was weak, contradicted by his own witness which left him with ample opportunity to commit the offence. His own testimony was riddled with inconsistencies and illogical explanations, which did not displace the strength of PW6’s evidence, corroborated by her mother’s account and the medical findings.
69. DW2’s evidence supports the alibi only in part — he confirms the defendant was working at his house that day, but his own admissions under *cross-examination* weakened the alibi because he was not constantly with the defendant and agreed OA’s house was nearby and accessible.

Credibility of Prosecution Witness

70. It was determined that PW6 gave unsworn evidence. The court found that she was not capable of giving sworn evidence. That being the case, Section 133A Evidence Act must apply.

71. The Defendant contends that PW6's evidence is illogical and inconsistent; if she had been assaulted in the family home, her father, who was nearby would have noticed.
72. If the Defendant had covered her mouth or forced her legs apart, there should have been physical injuries, which the doctor did not find.
73. The Defendant further suggests that PW6 may have been influenced or coached to implicate him.

VIII Findings and Conclusions

74. This Court is acutely aware of the seriousness of the charge and the gravity of PW6's allegations. Sexual offences against children are among the most serious offences known to law, and the Court does not lightly reject the testimony of a child victim.
75. Having said that, the Court is always mindful about accepting the unsworn evidence of a child. Such evidence must be approached with caution and considered against the totality of the evidence before the Court. Having carefully evaluated PW6's testimony together with the corroborative evidence, including her prompt complaint to PW4, her observed distress, and the medical findings, I am satisfied that her account is truthful and reliable. In these circumstances, I am of the view that it is safe to rely upon her unsworn testimony.
76. The medical evidence of PW2, who observed circular redness at the entrance of the vagina, is consistent with PW6's version of events. While no semen was detected and there was no rupture of the hymen, the law does not require ejaculation or hymenal tearing for penetration to be established. The redness at the vaginal entrance, taken together with PW6's credible testimony, is sufficient to prove penetration for the purposes of the charge.
77. The testimony of PW4 and PW3 further corroborates PW6's evidence. PW6's complaint to her mother shortly after the incident is admissible under *section 157 of the Evidence Act* and strengthens the reliability of her account. The observations of PW4, who described PW6's distress, and the behaviour of the Defendant when confronted, including his silence and apology, reinforce the conclusion that the offence occurred.
78. The Defendant's alibi, supported by DW2, does not create reasonable doubt. DW2 himself admitted that he was not always with the Defendant, that he was unwell, and that his house was only a short walking distance from the place of the incident. Thus, the Defendant had both the time and opportunity to commit the offence. The inconsistencies between DW2's testimony and that of the Defendant further weaken the defence case.

79. The Court also finds the Defendant's explanations during cross-examination to be illogical and unconvincing. His conduct when confronted by PW3 and PW4 is inconsistent with innocence. His reliance on the absence of semen or hymenal tearing is misplaced in law and fact.
80. For these reasons stated above, I am satisfied that the prosecution has proven its case against the defendant, beyond any reasonable doubt. I find him guilty of the charge and convict him accordingly. He shall be sentenced once I received his plea in mitigation.

MUHAMMED FAISAL BIN PDJLD KOL(B) DSP HAJI KEFLI
Judicial Commissioner