

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CRIMINAL JURISDICTION

CRIMINAL CASE NO.: HAC 135 OF 2012

STATE

-v-

SERU RADANIVA

Counsels : **Ms. K. Semisi for the State**

Accused In person

Date of Sentence : **13 August 2013**

SENTENCE

1. The Director of Public Prosecutions preferred following charge against the accused above named.

COUNT 1

Statement of Offence

AGGRAVATED ROBBERY: Contrary to Sections 311 (1) (a) and (2) of the Crimes Decree No. 44 of 2009.

Particulars of Offence

ANARE SOVAKALIA, TEVITA LIUVOLIGA AND SERU RADANIVA in company with each other at Nadi in the Western Division, robbed Elvis Elvin of a laptop bag containing Compac Laptop valued at \$2000, External hard drive valued at \$200, I-pod valued at \$300, Tool Kit valued at \$20, Coral brand Mobile Phone valued at \$150, Nokia brand Mobile Phone valued at \$150, Nokia brand Mobile Phone valued at \$250 and 2 Flash Drives valued at \$20, all to the total value of \$3090, the property of the said Elvis Elvin.

2. When the case was mentioned to take a plea on 27th February 2013 you pleaded not guilty to the charge.

3. On 23rd July 2013 you informed Court that you want to plead guilty. On the same day you pleaded guilty to the charge.
4. On 31st July 2013 you admitted the summary of facts.
5. The Summary of Facts submitted by the State Counsel states as follows:

“On the 29th August 2012, one Elvis Alvin [complainant], aged 22 years old, IT technician of Togo Lavusa, Nadi knocked off work and boarded the bus to Nadi Town. When he reached the bus stand, he took a walk towards the Nadi Town end. When he reached the Nadi Civic Centre, he went and used the toilet and when he came out of the toilet he saw someone waiting at the toilet passage. When the complainant walked out of the toilet, a boy punched him and three others pushed him on the floor. Seru Radaniva [accused] grabbed his bag containing his compact laptop valued at \$2000, external hard drive valued at \$300, tool kit valued at \$20 and 3 mobile phones-Digicel valued at \$150, Nokia valued at \$250 and another Nokia valued at \$150, with his house keys and two flash drives valued at \$20, all to the total value of \$3090. The accused and the three other boys then ran away.

This matter was reported at Nadi Police Station and the accused and two others were arrested and interviewed under caution. The accused and the other two boys admitted to committing the offences. The Coral 850 mobile phone and the Compact laptop were recovered by Police valued at \$2150.

The accused and the two others were thereafter charged with one count of Aggravated Robbery, contrary to Section 311 (1) (a) and (2) of the Crimes Decree No. 44 of 2009.”

6. After carefully considering your Plea to be unequivocal this Court found you guilty for aggravated robbery and accordingly you are convicted under Section 311 (1) (a) and (2) of the Crimes Decree.
7. Seru Radaniva you stand convicted for Aggravated Robbery.
8. Section 311 (1) (a) prescribes a maximum sentence of 20 years imprisonment for aggravated robbery.
9. Considering the tariff for the offence of Aggravated Robbery in **Wainiqolo v State** [2006] FJCA 70; AAU 0027.2006 (27 November 2006) and **State v Rokonabete & others** [2008]FJHC 226; HAC 118.2007 (15 September 2008) Court accepted between 8 years to 14 years imprisonment as tariff.

10. In **State v Rokonabete & Others** Court summarized the principles to be;

“The dominant factor in assessing seriousness for any types of robbery is the degree of force used or threatened. The degree of injury to the victim or the nature of and duration of threats are also relevant in assessing the seriousness of an offence of robbery with violence. If a weapon is involved in the use or threat of force that will always be an important aggravating feature. Group offending will aggravate an offence because the level of intimidation and fear caused to the victim will be greater. It may also indicate planning and gang activity. Being the ringleader in a group is an aggravating factor. If the victims are vulnerable, such as elderly people and persons providing public transport, then that will be an aggravating factor. Other aggravating factors may include the value of items taken and the fact that an offence was committed whilst the offender was on bail.

The seriousness of an offence of robbery is mitigated by factors such as timely guilty plea, clear evidence of remorse, ready co-operation with the police, response to previous sentences, personal circumstances of the offender, first offence of violence, voluntary return of property taken, playing a minor part, and lack of planning involved.”

11. Out of the total value of \$3090 robbed \$2150 value of productions have been recovered. The state had confirmed this position.

12. Considering the nature of the offence and all other circumstances I commence your sentence at 8 years.

13. Only aggravating factor is that the robbery was committed in a public facility. I add 1 year for that aggravating factor. Now your sentence is 9 years.

14. Your mitigating circumstances are:

- (a) You are 21 years old,
- (b) You are a first offender,
- (c) You are remorseful,
- (d) Majority of the robbed items were recovered.

15. Considering above I reduce 3 years of your sentence. Now your sentence is 6 years.

16. For your early guilty plea I deduct 2 years. Now your sentence is 4 years.

17. I deduct 10 more months for the time period in remand. Now your sentence is 3 years 2 months.

18. You have four pending cases of similar nature.

19. Section 18 (1) of the Sentencing and Penalties Decree states as follows:

Subject to sub-section (2), when a court sentences an offender to be imprisoned for life or for a term of 2 years or more the court must fix a period during which the offender is not eligible to be released on parole.

20. After considering all circumstances pursuant to Section 18 (1) of the Sentencing and Penalties Decree, I fix a non-parole period of 2 years imprisonment.

Summary;

21. You are sentenced to 3 years and 2 months with non parole period of 2 years.

22. 30 days to appeal

Sudharshana De Silva
JUDGE

AT LAUTOKA
13th August 2013

Solicitors for the State: Office of the Director of Public Prosecution, Lautoka
Solicitors for the Accused: Accused In person