

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No. HAC 005 of 2013

STATE

vs.

RAVINESH DEO AND ASHNEEL KAMAL

Counsel : Ms. P. Low for the State
Mr. Maopa for the Accused

Hearing : 4th, 5th, 6th & 7th, 10th, & 11th March 2014

Judgment : 11th March 2014

JUDGMENT

(1) Mr. Ravinesh Deo and Mr. Ashneel Kamal are charged with one count of 'Arson' contrary to section 362(a) of the Crimes Decree No. 44 of 2009 by the Director of Public Prosecutions.

- (2) The Charge and the Particulars of offence are as follows;

Statement of Offence

ARSON: Contrary to Section 362 (a) of the Crimes Decree No. 44 of 2009

Particulars of Offence

RAVINESH DEO AND ASHNEEL KAMAL between the 11th day of December 2012 and the 12th day of December 2012 at Labasa in the Northern Division willfully and unlawfully set fire to the Westpac Bank Corporation Labasa Branch Office.

- (3) As pointed out in the Summing Up, the only available evidence against the two accused is their 'confessions' made to the police officers during their caution interviews and charging process.
- (4) At the end of the Voire Dire inquiry, this court ruled that the two caution interview statements and the two charge statements of the two accused were made voluntarily to the police officers, whilst they were in police custody. Therefore, those statements were ruled as relevant and admissible in evidence and can be lead in evidence at the trial proper.
- (5) The prosecution led the evidence pertaining to the caution interview statements and the charge statements through fourteen police officers during the trial proper. Assessors also had the previledge of observing the witnesses and their demeanour while they offered evidence in court. Having considered the evidence of the said fourteen police officers and two medical practitioners, the assessors have unanimously decided that both the accused are guilty of the offence as charged.
- (6) Having had decided the issues of 'voluntariness' and 'fairness' of the caution interview statements in favour of the prosecution, this court has to now decide whether the contents of the said statements are true in context and if so, prove the elements of the charge of 'arson' beyond reasonable doubt.

- (7) In directing myself on my own Summing Up, I note that the defence could not create any 'reasonable doubt' in the case of the prosecution. The contents of the two caution interview statements show that there are certain facts which should be in the exclusive knowledge of its makers. Therefore, the court finds that the contents of the voluntarily made confessionary statements are to be true.
- (8) In that event, the court finds that the elements of the charge of 'arson' are proved beyond reasonable doubt with the contents of the two caution interview statements of the two accused.
- (9) This court is not satisfied with the narrations of the two accused as those could not create any reasonable doubt on the prosecution case. Thus, I refuse to accept the defence version.
- (10) This court concurs with the unanimous opinion of the assessors. Mr. Ravinesh Deo and Mr. Ashneel Kamal are convicted accordingly to the charge of 'arson'.
- (11) That is the judgment of court.

Janaka Bandara
Judge
11.03.2014

At Labasa

Solicitors

Office of the Director of Public Prosecutions for State
Office of Messrs Babu Singh & Associates Nadi for Accused

