

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CRIMINAL JURISDICTION

CRIMINAL CASE NO.: HAC 109 OF 2012

STATE

-v-

(1) STEVEN PRASAD
(2) RAVINESH SINGH
(3) RONIL KUMAR

Counsels : Mr. S. Babitu for the Prosecution
Ms. V.T. Narara for the 1st accused
Ms. A. Lata for the 2nd accused
Third Accused in person

Date of Sentence : 31 March 2015

SENTENCE

1. You were charged as follows:

Statement of Offence

AGGRAVATED ROBBERY: Contrary to Section 311 (1) (a) of the Crimes Decree No. 44.

Particulars of Offence

STEVEN PRASAD, RAVINESH SINGH and RONIL KUMAR in company with one another, on the 11th day of July 2012 at Nadi in the Western Division, robbed **KUSHAL KUMAR** of an I-Phone 4S Model valued at \$2,000.00, a Sony Ericson mobile phone valued at \$250.00, two Apple I-Pods valued at \$1,000.00, a pair of Nike shoes valued at \$140.00 and cash of \$5,500.00, all to the total value of \$8,890.00.

2. All three accused pleaded Not Guilty to above charge. After trial, three assessors unanimously found you Not Guilty of the above count. This Court over turned their opinion and found all three of you Guilty and convicted you.
3. The 1st and 3rd accused with others have entered the complainant's house in the night and robbed items including \$5,500.00 in cash, mobile phones and i-pods worth \$ 8,890.00. They have assaulted the complainant during the robbery. The 2nd accused had dropped the other accused at the scene and picked them up after the robbery and received a share.
4. All three accused stand convicted for one count of Aggravated Robbery.
5. The maximum sentence for Aggravated Robbery is 20 years.
6. The tariff for Aggravated Robbery is well settled now.
7. In **State v Rokonabete** [2008] FJHC 226; HAC 118.2007 (15 September 2008) it was held by Hon. Mr. Justice D. Goundar that:

"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 treat 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 ring leader in a group is an aggravating factor. If the victims are vulnerable, such as elderly people and person providing public transport, that will be an aggravating factor. Other aggravating factors may include the volume 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 a timely guilty plea, clear evidence of remorse, ready co-operation with the police, response to previous sentence, personal circumstances of offender, first offence of violence, voluntary of property taken, a minor part, and lack of planning involved."

8. In **State v Manoa** [2010] FJHC 409; HAC 061.2010 (6th August 2010) it was held by Hon. Mr. Justice Paul Madigan that:

"The maximum penalty for robbery with violence under Penal Code is life imprisonment, while the maximum penalty for aggravated robbery under the Crimes Decree is 20 years imprisonment. Although the maximum sentence

under the Decree has been reduced to 20 years imprisonment, in my judgment, the tariff of 8-14 years imprisonment established under the old law can continue to apply under the new law. I hold this for two reasons. Firstly, the established tariff of 8-14 years under the old law falls below the maximum sentence of 20 years under new law. Secondly, under the new law, aggravated robbery is made an indictable offence, triable only in the High Court, which means the Executive's intention is to continue to treat the offence seriously."

9. I take a starting point of 10 years for each of you for the count of Aggravated Robbery.

10. Aggravating factors;

- (i) Group offending
- (ii) Planned robbery

11. I add 4 years for above and now your sentence is 14 years.

12. Mitigating circumstances of Steven Prasad:

- (i) First offender at the age of 40 years
- (ii) Diagnosed with an unknown primary cancer prostate

13. Considering all above, I deduct two years. Now your sentence is 12 years.

14. You were in remand from 10.8.2012 to 5.4.2013 for a period of 8 months and again from 25.2.2014 up to date for a period of 1 year 1 month. Acting under Section 24 (1) of the Sentencing and Penalties Decree, I deduct that period from the sentence. Now your sentence is 10 years 3 months.

15. Mitigating circumstances of Ravinesh Singh:

- (i) First offender at the age of 35 years
- (ii) Diabetic patient
- (iii) Driver of the gat way vehicle and was not present at the scene of robbery

16. Considering all above, I deduct 4 years. Now your sentence is 10 years.

17. You were in remand from 10.8.2012 to 23.8.2012 for a period of 13 days and again from 12.9.2012 to 18.10.2012 for a period of 1 month and 6 days. Acting under Section 24 (1) of the Sentencing and Penalties Decree, I deduct 2 months from the sentence. Now your sentence is 9 years 10 months.

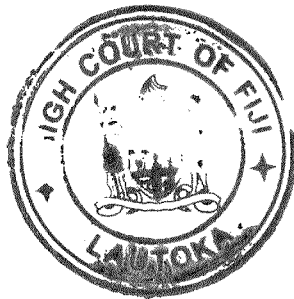
18. Mitigating circumstances of Ronil Kumar is not submitted to the Court. However, he is not a first offender.
19. You were in remand from 12.8.2012 to 9.10.2013 for a period of 14 months and again from 27.6.2014 up to date for a period of 9 months. Acting under Section 24 (1) of the Sentencing and Penalties Decree, I deduct 23 months from your sentence. Now your sentence is 12 years and one month.
20. Acting under Section 18 (1) of the Sentencing and Penalties Decree, I fix a non-parole period of 8 years for the 1st and 2nd accused and 10 years for the 3rd accused.

Summary

21. The sentence for each accused are as follows:

1st accused -10 years 3 months imprisonment with 8 years as non-parole period
2nd accused-9 years 10 months imprisonment with 8 years as non-parole period
3rd accused 12 years 1 month imprisonment with 10 years as non-parole period

22. 30 days to appeal to Court of Appeal.




Sudharshana De Silva
JUDGE

At Lautoka
31st March 2015

Solicitors: Office of the Director of Public Prosecution for State
Office of the Legal Aid Commission for the 1st and 2nd Accused
Third accused in Person