

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 062 OF 2015S

STATE

vs

LIVAI RAVUNU

Counsels : Mr. M. Vosawale for State  
Ms. S. Prakash for Accused  
Hearings : 27 May and 5 June, 2015  
Sentence : 7 August, 2015

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**SENTENCE**

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1. On 27 May 2015, in the presence of your counsel, you pleaded guilty to the following information:

**COUNT ONE**

***Statement of Offence***

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

***Particulars of Offence***

LIVAI RAVUNU on the 16<sup>th</sup> day of December 2014, at Suva, in the Central Division, wilfully and unlawfully set fire to the house of MARIA LEWADAU.

## COUNT TWO

### **Statement of Offence**

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

### **Particulars of Offence**

LIVAI RAVUNU on the 16<sup>th</sup> day of December 2014, at Suva, in the Central Division, willfully and unlawfully set fire to the house of PENI RAVOKA.

2. On 5 June 2015, the prosecution read the following summary of facts in court:

“...On the 16<sup>th</sup> of December 2014 Maria Lewadau (1<sup>st</sup> complainant) was at home with her husband Kaminieli Vuadreu. Whilst inside the living room, their son Livai Ravunu (accused) returned home drunk. The accused went inside the house and brought out his towel to have his shower, before heading to the bathroom he went to the kitchen which was locked, the accused began shouting at his parents to open the kitchen just then three louver blades fell from the kitchen window, the complainant’s husband came out of the house and opened the kitchen.

The accused began arguing with his father (Kaminieli Vuadreu), a scuffle broke out between the two. When the complainant saw this, she asked her husband if they could go to another house as the accused was still angry at him, the complainant took her husband and left him at the other house; they then slept there that night. The accused also left the house for a brief moment, upon his return he saw that his dinner was still heating on the stove – still frustrated, the accused removed the pot of food from the stove and threw the lit stove inside the house.

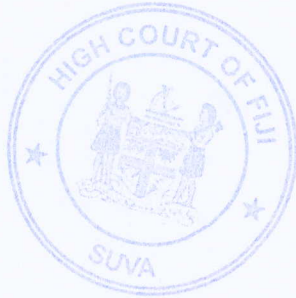
Whilst asleep in another house, the 1<sup>st</sup> complainant heard people shouting “fire, fire, fire” – she ran outside and saw her kitchen burning. The concrete house consisted of 1 bedroom, a kitchen and sitting room. Cost of the damage amounted to \$25,000.00; the fire had also spread to the neighbour’s house.

Ratu Penioni Ravoka (2<sup>nd</sup> complainant) who was the neighbor of the 1<sup>st</sup> complainant was not at home on the 16<sup>th</sup> of December 2014. He had taken his father to hospital, upon his return he saw fire-fighters spreading water on his partly burnt property – the most burnt part of his property were the sitting room and extensions – which cost him \$25,000 in damages. National Fire Authority’s assessment of Mr. Ravoka’s property estimated that there was 60% damage caused by the fire, further assessment revealed that his whole roof structure was damaged along with \$6,000.00 worth of household items...”

3. The court then checked with your counsel to see that you were admitting all the elements of the offence of arson, in both counts. Through your counsel, you admitted that you willfully and unlawfully set fire to the complainants' houses, in counts no. 1 and 2. Through your counsel, you admitted the prosecution's summary of facts. As a result of the above admissions, the court found you guilty as charged on both counts, and convicted you accordingly on both counts.
  
4. In **State v Atunaisa Raralevu**, Criminal Case No. HAC 026 of 2013S, High Court, Suva, I said the following: "...Arson", as an offence, is viewed seriously by the law makers of this country. It carried a maximum penalty of life imprisonment. Previous case laws had set a tariff between 2 to 4 years imprisonment (see Kelemedi Lagi & Others v State, Criminal Appeal Case No. HAA 0004 of 2004S, High Court, Suva, which was endorsed by the Fiji Court of Appeal in Niko Lesu and Sunia Vosataki v State, Criminal Appeal No. AAU 058 of 2011). However, the Fiji Court of Appeal, in Damodar Naidu & Another v Reginam, Fiji Law Report, Vol 24, 1978, pages 93 to 106, approved a sentence of 7 years imprisonment for accused no. 1 and 10 years imprisonment for accused no. 2, for burning down a number of shops in Rakiraki Town, in May 1977. Of course, the final sentence will depend on the mitigation and aggravating factors..."
  
5. The aggravating factors in this case were as follows:
  - (i) *This was a domestic violence offence:* You burnt your mother's house, at the material time. The summary of facts appear to show a 19 year old male who showed utter disrespect to his parents. Your parents brought you to this world, looked after you until what you are today. However, the facts revealed you returned home drunk, argued with your father, forced your parents to sleep somewhere else. You were not happy with your dinner not been ready on time. You were angry and you burn your mother's house. This is not the kind of behaviour a young person should show his parents. The court will have to teach you a lesson to respect your parents. A custodial sentence is called for, as a warning to you, not to repeat this offending in the future.
  
  - (ii) *Loss of Property:* People in Fiji worked hard to buy a property/house to live in, and this included your parents. Your mother lost \$25,000 worth of damage. The second complainant also lost \$25,000 worth of property, and \$6,000 worth of household items. His house was adjacent to your mother's house, and it caught fire, when the fire spread to his house. Your offending showed your utter disregard to these complainants'

property rights. You should not complain when your liberty is taken away to pay for your crimes.

6. The mitigating factors were as follows:
  - (i) At the age of 19 years old, this is your first offence;
  - (ii) You pleaded guilty to the charges approximately 3 months after first call in the High Court. As a result, you have saved the court's time;
  - (iii) You had been remanded in custody for approximately 4 months.
  
7. On count no. 1, I start with a sentence of 4 years imprisonment. I add 2 years for the aggravating factors, making a total of 6 years imprisonment. I deduct 1 year for being a first offender, leaving a balance of 5 years imprisonment. I deduct another 4 months for time already served, while remanded in custody, leaving a balance of 4 years 8 months imprisonment. For pleading guilty, I deduct 2 years 8 months, leaving a balance of 2 years imprisonment. On count no. 1, I sentence you to 2 years imprisonment.
  
8. On count no. 2, I repeat the above process and sentence.
  
9. The summary of your sentences are as follows:
  - (i) Count no. 1 : 2 years imprisonment
  - (ii) Count no. 2 : 2 years imprisonment
  
10. Because of the totality principle of sentencing, I direct that the above sentences be made concurrent to each other, that is, a final total sentence of 2 years imprisonment.
  
11. Mr. Livai Ravunu, for setting fire to your mother's and Mr. Peni Ravoka's houses, I sentence you to 2 years imprisonment, with a non-parole period of 1 ½ years imprisonment, effective forthwith.



**Salesi Temo**  
**JUDGE**

Solicitor for State : Office of the Director of Public Prosecution, Suva.  
Solicitor for Accused : Legal Aid Commission, Suva.