

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 339 OF 2015S

**STATE**

**vs**

**1. BINESH PRASAD**

**2. MATHEW GUNUA**

**Counsels** : **Mr. S. Vodokisolomone and Mr. S. Shah for State**  
**Ms. S. Ratu for Accused No. 1**  
**Ms. A. Seruvatu for Accused No. 2**

**Hearings** : **6 to 10, and 13 February, 2017**

**Summing Up** : **14 February, 2017**

**Judgment** : **14 February, 2017**

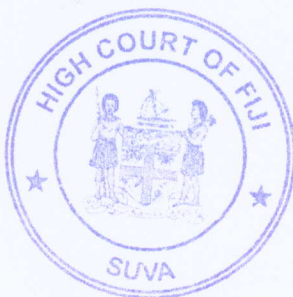
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**JUDGMENT**

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1. The 3 assessors had returned with a unanimous decision finding the accused not guilty as charged on all the 8 counts in the information.
2. Obviously, the 3 assessors had unanimously not accepted the prosecution's version of events.
3. The views of the 3 assessors represented the views of the community at this trial and it always carries great weight with the trial judge.

4. On the evidence, I find the activities of accused no. 2 on 14 and 15 October 2015 that of a trusting individual. It borders on naivety.
5. On the evidence, I accept the views of the three assessors. The evidence presented by the prosecutions was not clear cut on whether or not accused no. 2 had the intention to kill the five people who died in the fire.
6. Also, there was no clear cut evidence that he intended to kill Jotishma Neelam on count no. 7.
7. He did not intend to damage Mr. Khalil's taxi.
8. On the evidence, I could not find that he was reckless when assessing what he did on 14 and 15 October 2015. He trusted Binesh Prasad. He put his faith in him. He had no intention to kill anybody that night, or harm anyone that night or damage other peoples' properties.
9. In a sense, he was stupid in associating himself with Binesh Prasad on 14 and 15 October 2015.
10. Given the assessors unanimous not guilty opinion, I agree with them and I find accused no. 2 not guilty as charged on all counts.
11. I consequently acquit him of the charges in count no. 1 to 8. In my view, the prosecution had not proven its case beyond a reasonable doubt.
12. Accused no. 2, you are a free man and you may go home.
13. Assessors thanked and released.



**Salesi Temo**  
**JUDGE**

**Solicitor for State** : **Office of the Director of Public Prosecution, Suva.**  
**Solicitor for Accused No. 1** : **Legal Aid Commission, Suva.**  
**Solicitor for Accused No. 2** : **A. Seruvatu, Barrister and Solicitor, Suva.**