

IN THE HIGH COURT OF FIJI

AT LABASA

CRIMINAL JURISDICTION

CRIMINAL CASE NO: HAC 63 OF 2016

STATE

V

SEMI VUCUI

**Counsels : Mr. L. Fotofili for State
Mr. K. Ratule for Accused**

Date of Trial : 03 and 04 July 2017

Summing Up : 06 July 2017

Judgment : 06 July 2017

Sentence : 07 July 2017

SENTENCE

1. Mr. Semi Vucui, you have been found guilty and convicted by this court for one count of Act Intended to Cause Grievous Harm, contrary to Section 255 of the Crimes Act which carries a maximum penalty of life imprisonment.

2. It was proved at the conclusion of the hearing that you have stabbed the victim on the left side of her flank with a knife. You had a de-facto relationship with her over a period of two years. The victim decided to end the said relationship. However, you did not want to accept it. You persuaded her to continue the relationship. On the evening of 25th of November 2016, you came to her house and requested her to give you another chance and promised her that you will change. She was firm on her decision. You then stabbed her on the left side of her flank with a knife.
3. Assault on women, specially within their own domestic environment is one of the worst form of physical assaults. Such offence undoubtedly causes adverse physical and psychological trauma in the life of the victim. Therefore, the court in sentencing offender of this nature is required to adopt a deterrence approach in order to deter offenders or other persons from committing offences of the same or similar nature and protect the community from offenders of this nature.
4. The acceptable tariff for the offence of Act Intended to Cause Grievous Harm is two (2) to six (6) years of imprisonment. **(The State v Pauliasi Yasa, Criminal Case No. HAC 044 of 2012S, State v Masicola [2015] FJHC 411; HAC081.2014S (5 June 2015), Felix Patel v State Criminal Appeal No HAA 030 of 2011 (27 October 2011).**
5. The victim impact report tendered by the prosecution states that the victim has been going through number of adverse physical and psychological traumas subsequent to this crime. According to the medical report of the victim, the injury sustained by the victim was very serious. The accused used a kitchen knife to inflict this injury.
6. Having considered the nature of the injury, level of culpability and the seriousness of the offending, I select three (3) year as the starting point.
7. You assaulted the victim when she tried to return you the towel, which you requested from her. You suddenly stood up from the chair and assaulted her. Hence, I find that you attacked her when she was in a defenseless and vulnerable position. It was proved that you have committed this crime when her three children were present in the house. Actually one of the

children came and covered her in order to prevent further attack on her mother. I consider these facts as aggravating grounds of this crime.

8. You are a first offender. You are 39 years old and have five children from your previous marriage. It was proved that you voluntarily surrendered to the Police with the knife. I consider these facts as mitigation grounds.

9. Having considered the above discussed aggravating grounds, I increase two (2) years and reach an interim imprisonment of five (5) years. Considering above mitigating grounds, I reduce two (2) year, reaching the final sentence of three (3) years of imprisonment.

10. Having considered the purpose of this sentence, that is founded on the principle of deterrence, I find two (2) years of non-parole period would serve the said purpose, while preserving the opportunity for the accused to rehabilitate himself as a law abiding individual.

Head Sentence

11. Accordingly Mr. Semi Vucui, I sentence you for a period of three (3) years of imprisonment for the offense of "Act Intended to Cause Grievous Harm" contrary to Section 255 of the Crimes Act. Furthermore, you are not entitled for any parole for a period of two (2) years pursuant to Section 18 (1) of the Sentencing and Penalties Act.

Actual period of Sentence

12. You have been in remand custody for this case for a period of seven (7) months and three (3) days as you were not granted bail by the court. In pursuant of Section 24 of the Sentencing and Penalties Act, I consider the period of seven (7) months as a period of imprisonment that have already been served by you.

13. Accordingly your actual sentencing period is two (2) years and five (5) months of imprisonment period, with one (1) year and five (5) months non parole period.

14. Since this incident involves with domestic violence, I am satisfied that there are sufficient grounds to consider making an order under the Domestic Violence Act. I accordingly make a permanent domestic violence restraining order against the accused with standard non molestation conditions and no contact conditions pursuant to section 24 and 28 of the Domestic Violence Act. The above domestic violence restraining order will be in force until this court or any other competence court is varied or suspended it. Furthermore, if you breached this restraining order, you will be charged and prosecuted for an offence pursuant of section 77 of the Domestic Violence Act.

15. Thirty (30) days to appeal to the Fiji Court of Appeal.



Thushara Rajasinghe
JUDGE

Solicitor for the State : Office of the Director of Public Prosecution, Labasa
Solicitor for the Accused : Messrs Gibson & Company, Barristers & Solicitors,
Labasa