

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 217 OF 2015S

STATE

VS

LEONE ROKOMARAIVALU

Counsels : Ms. S. Serukai for State  
Accused in Person  
Hearings : 6 and 7 March, 26, 27 and 28 June, 2017  
Summing Up : 29 June, 2017  
Judgment : 29 June, 2017  
Sentence : 31 July, 2017

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SENTENCE

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1. In a judgment delivered on 29 June 2017, the court found you guilty and convicted you on the following counts in the following information:

First Count

*Statement of Offence*

AGGRAVATED ROBBERY: Contrary to section 311(1)(a) and (b) of the Crimes Act 2009.

*Particulars of Offence*

LEONE ROKOMARAIVALU and PENI MATAIRAVULA on the 28<sup>th</sup> day of May 2015 at Visama, in the Central Division robbed DEO KUMAR of 3 gold diamond rings valued at \$3000.00, mangal sutra valued at \$3000.00, 7 gold

bangles valued at \$4,500.00, 5 pairs of gold earrings valued at \$3,500, gold chain with pendant valued at \$1000.00, 4 gold chains valued at \$4000.00, mohar valued at \$1000.00, Samsung Phone valued at \$1000.00, iPhone valued at \$1699.00, Nokia valued at \$500.00, Window valued at \$99.00, Zte Tablet valued at \$199.00, Alcatel One Touch valued at \$300.00, Nokia valued at \$50.00 and \$9000 cash, all to the value of approximately \$32,847.00 and immediately before committing such robbery, personal violence was used on the said **ANILA SINGH**.

### Second Count

#### **Statement of Offence**

**THEFT:** Contrary to section 291 of the Crimes Act 2009.

#### **Particulars of Offence**

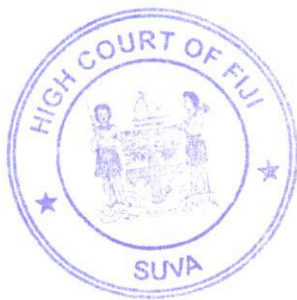
**LEONE ROKOMARAIVALU and PENI MATAIRAVULA** on the 28<sup>th</sup> day of May, 2015 at Visama in the Central Division with an intention to permanently deprive, stole a van registration number EG 075 to the value of approximately \$12,000.00 the property of **DEO KUMAR**.

2. The brief facts were as follows. The complainants, PW1 and PW2, were fast asleep with other members of their family, in their house, at Visama Nausori, on 28 May 2015. PW2 heard the family dog repeatedly barking at 2.30am in the morning. She woke up. She saw three i-taukei boys in the sitting room of their house. She raised the alarm. The boys were joined by five others. PW2 was hit in the head with a pinch bar and punched on the back. She was injured.
3. PW2's husband, PW1, came to assist. He was warned not to intervene. The men demanded money. They ransacked the house and stole the properties itemized in count no. 1. The men demanded PW1's van keys. He gave them the same. Later, they fled the scene in PW1's van. They used the van as their getaway vehicle. The matter was reported to police. An investigation was carried out. The accused was arrested and caution interviewed by police. He admitted being part of the group that violently robbed PW1 and PW2 at the material time. He also admitted being the robbers' getaway driver on 28 May 2015.
4. "Aggravated Robbery" is a serious offence, and it carries a maximum penalty of 20 years imprisonment (section 311 (1) of the Crimes Decree 2009). The tariff for a spate of robberies is

a sentence between 10 to 16 years imprisonment: **Nawalu v State**, Criminal Appeal Case No. CAV 0012 of 2012, Supreme Court of Fiji. The tariff for a single case of robbery with violence is 8 to 16 years imprisonment: **Wallace Wise v The State**, Criminal Appeal Case No. CAV 0004 of 2015, Supreme Court of Fiji. The actual sentence will depend on the aggravating and mitigating factors.

5. "Theft" carried a maximum sentence of 10 years imprisonment (section 291(1) of the Crimes Act 2009).
6. The aggravating factors, in this case, were as follows:
  - (i) *Home Invasion Offence:* The people living in this country are entitled to treat their homes as their castles. They go home to rest, sleep and recuperate for the next day at work. You and your friends had no regard whatsoever to this family's right to enjoy the comfort of their home. You broke into the same, ransacked the same and stole \$32,847 worth of properties. You will have to pay for your crime with the loss of your liberty, and you should not complain of the sentence. The sentence is meant to protect the community and act as a deterrence to others;
  - (ii) You offended while the complainant's family were sleeping in their home at 2.30am in the early morning;
  - (iii) Your offending was carried out with premeditation and planning;
  - (iv) A pinch bar and fists were used to attack PW2;
  - (v) The victims were verbally threatened and abused and PW2 were hit on the head with a pinch bar, resulting in her suffering serious head injuries.
7. The mitigating factor was as follows:
  - (i) You had been remanded in custody since 8 June 2015, when you first appeared in the Magistrate Court, that is, 2 years 1 month 23 days ago.
8. On count no. 1 (aggravated robbery), I start with a sentence of 12 years imprisonment. I add 3 years for the aggravating factors, making a total of 15 years imprisonment. I deduct 2 years 2 months for time already served, while remanded in custody, leaving a balance of 12 years 10 months imprisonment.

9. On Count no. 2 (theft), I sentence you to 5 years imprisonment.
10. In summary, your sentences are as follows:
- |      |             |   |                    |   |                                    |
|------|-------------|---|--------------------|---|------------------------------------|
| (i)  | Count No. 1 | : | Aggravated Robbery | : | 12 years 10 months<br>Imprisonment |
| (ii) | Count No. 2 | : | Theft              | : | 5 years imprisonment.              |
11. Because of the totality principle of sentencing, I direct that the above sentences be made concurrent to each other, making a total final sentence of 12 years 10 months imprisonment.
12. Mr. Leone Rokomaraivalu, for violently robbing the complainants and his family on 28 May 2015 at Visama Nausori in the Central Division, I sentence you to 12 years 10 months imprisonment, with a non-parole period of 11 years imprisonment, effective forthwith.
13. Pursuant to section 4(1) of the Sentencing and Penalties Act 2009, the above sentence is designed to punish you in a manner that is just in all the circumstances; to protect the community from people like you; to deter other would-be offenders and to signify that the court and the community denounce what you did to the complainants on 28 May 2015.
14. You have 30 days to appeal to the Court of Appeal.



  
**Salesi Temo**  
**JUDGE**

**Solicitor for the State** : **Office of the Director of Public Prosecution, Suva.**  
**Solicitor for the Accused** : **Accused in Person**