

IN THE HIGH COURT OF FIJI AT SUVA

CASE NO: HAC. 254 of 2016

[CRIMINAL JURISDICTION]

STATE

V

1. SHAVNEEL PRASAD
2. PRASHNIL KUMAR

Counsel : Ms. S. Navia and Ms. W. Elo for State
Mr. J. Uludole for 1st Accused
Mr. A. Chand and Mr. I Rakaria for 2nd Accused

Hearing on : 25th - 27th September 2017

Ruling on : 27th September 2017

VOIR DIRE RULING

1. The prosecution intends to use the confessions recorded in the cautioned interview statement (tendered during the hearing as VDPE1) and the charge statement (tendered during the hearing as VDPE2) against the first accused during trial. The first accused challenges the voluntariness of the two statements based on the following grounds;

- I. *That the interviewing/witnessing officers putting words [sic] into the applicant's mouth.*
- II. *That the interviewing/witnessing officers assaulted the accuse[d] by slapping and punching the accused's stomach.*

III. *That the interviewing/witnessing officers threatened and punch[ed] the accuse[d's] stomach and back of his head.*

2. The head of the investigation team, the interviewing officer and the charging officer gave evidence on behalf of the prosecution and said that the first accused made the statements during the cautioned interview and the charge statement voluntarily and those statements were not made as a result of assault, threats or false promises made by the police officers.
3. The first accused gave evidence and said that he was assaulted by the police officers who were present in the office during the cautioned interview, he was really frightened and was in pain. He said he complained about what he went through during the cautioned interview to the third prosecution witness who charged him as he spoke nicely and was not like the other officers but the third prosecution witness did not do anything about it. The second accused was called as the second defence witness and he said that he was present when the first accused was being interviewed and he did not see or hear anything happen to the first accused. He said that there was another accused who was not treated properly.
4. It was pointed out by the prosecution that the first accused had not complained to anyone about the alleged assaults even after he was produced before the High Court. The response of the first accused on this was that he informed his lawyer and he was told that it will be raised during the trial.
5. Considering all the evidence, especially the evidence of the second accused and the *voir dire* grounds, I am satisfied beyond reasonable doubt that the cautioned interview statement and the charge statement of the first accused were made voluntarily.

6. In the circumstances, I hold that the cautioned interview statement (VDPE 1) and the charge statement (VDPE 2) are admissible in evidence.



A handwritten signature in blue ink, appearing to read "Vinsent S. Perera".

Vinsent S. Perera
JUDGE

Solicitors for the State : Office of the Director of Public Prosecutions, Suva.
Solicitor for the 1st Accused : Colavanua Law, Suva
Solicitor for the 2nd Accused : Legal Aid Commission, Suva.