

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**CRIMINAL JURISDICTION**

**Crim. Case No: HAC 335 of 2016**

STATE

v.

SAULA VUNIVESI

**Counsel:** Ms S. Lodhia with Mr E. Samisoni for State  
Accused In Person

**Hearing:** 16th and 18<sup>th</sup> October 2017

**Summing Up:** 24<sup>th</sup> October 2017

**Judgment:** 25<sup>th</sup> October 2017

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**JUDGMENT**

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1. The accused is charged with one count of Aggravated Robbery, contrary to Section 311 (1) (a) of the Crimes Act. The particulars of the offence are that:

**COUNT**

*Statement of Offence*

**AGGRAVATED ROBBERY:** Contrary to Section 311 (1) (a) of the Crimes Decree No. 44 of 2009.

*Particulars of Offence*

SAULA VUNIVESI with another on the 7<sup>th</sup> day of September 2016 in the Central Division, stole cash in the sum of \$100 and 1 Samsung

mobile phone valued at \$300; all to the total value of \$400, the property of **RONALD ROHITESH** and immediately before stealing used force on the said **RONALD ROHITESH**.

2. The hearing of this matter commenced on the 16th of October 2017 and concluded on the 18th of October 2017. The prosecution adduced the evidence of three witnesses. The defence also presented the evidence of three witnesses, including the accused. Subsequently, the learned counsel for the prosecution and the defence made their respective closing addresses, which was followed by the summing up.
3. The three assessors, in their unanimous opinions, found the accused guilty for this offence.
4. Having carefully considered the evidence adduced during the course of the hearing, the respective closing addresses of the counsel, the summing up, and the opinions of the three assessors, I now proceed to pronounce my Judgment as follows.
5. The prosecution alleges that the accused together with two others came and robbed the complainant when he was coming out from a shop on the 7th of September 2016. The complainant had gone to one of his friend's place, where he drank two glasses of beer with one Sione. He then went to a shop beside the Happy Garden Restaurant to buy cigarette. It was about midday. When he was coming out of the shop, the accused and two of his accomplices came towards him. Two of them grabbed him from behind and the accused punched on his face. After that the accused took the mobile phone and money from the trousers' pocket of the complainant. The accused was dressed in a red t-shirt, while other two accomplices were dressed in white t-shirt, and green and black vest respectively.
6. The accused denies the allegation. However, he admits that he was at the vicinity of the scene of the crime when it took place. According to his evidence, the accused came to buy marijuana from a friend with one Sakaraia and another man. While he was talking to his friend, he saw Sakaraia and other man together with another, who was dressed in a red t-shirt, assaulted and robbed the complainant.



7. Accordingly, the main dispute of this matter is whether the accused was dressed in a red t-shirt and robbed the complainant together with two others.
8. The complainant had the accused under his observation for few minutes, when he punched and robbed his mobile phone and money. The accused was standing in front of him, while the two accomplices were holding the complainant from his behind. The complainant then observed the accused, when he was standing and looking at him, while one of the accomplices tried to strike them with a broken beer bottle. The complainant then saw the accused with one of the accomplices were coming out of a shop, few minutes after the incident. The complainant then informed DC Pelasio about them.
9. Sione in his evidence said that he saw the accused, who were dressed in a red t-shirt with two others, were robbing the complainant. He then chased after them with the complainant. While he was chasing them after, he saw the accused.
10. DC Pelasio knew the accused as he is a known person. He had seen the accused almost every day in Nabua. DC Pelasio said that he clearly saw the accused dressed in a red t-shirt, when he was informed by the complainant and Sione at the bus stop. DC Pelasio then called the accused by his name. The accused then looked at him for a while and escaped from the scene.
11. According to the evidence given by the complainant, Sione and DC Pelasio, it was a clear day. Nothing had obstructed their observation of the accused. The complainant and Sione had observed the accused while he was taking part in the robbery, and then running away from the scene. Both of them then saw the accused with one of his accomplices few minutes after the incident.
12. Having considered the evidence of identification, I am satisfied that the complainant, Sione and DC Pelasio have correctly and accurately identified the accused as the person who was dressed in a red t-shirt and robbed the complainant with two other accomplices.

13. According to the evidence given by the accused, he went to buy marijuana with Sakaraia and another man. They came to meet the accused at his work place. They then went to buy marijuana. I do not accept the evidence given by the accused as true or may be true. Moreover, I do not find the evidence given by the defence has created any reasonable doubt about the prosecution case.
14. In view of these reasons, I do not find any cogent reasons to disregard the unanimous opinion of guilt given by the three assessors.
15. I accordingly find the prosecution has proven the accused is guilty for the offence of Aggravate Robbery as charged beyond reasonable doubt.
16. In conclusion, I hold that the accused guilty for the offence of Aggravated Robbery, contrary to Section 311 (1) (a) of the Crimes Act and convict him for the same accordingly.



R.D.R.T. Rajasinghe  
**Judge**

**At Suva**

25<sup>th</sup> October 2017

**Solicitors**

Office of the Director of Public Prosecutions for the State.  
Accused In Person.