

IN THE HIGH COURT OF FIJI AT SUVA

CASE NO: HAC. 355 of 2016

[CRIMINAL JURISDICTION]

STATE

V

ARISI KAITANI

Counsel : Ms. S. Lodhia and Mr. Z. Zunaid for State
Mr. T. Ravuniwa for Accused

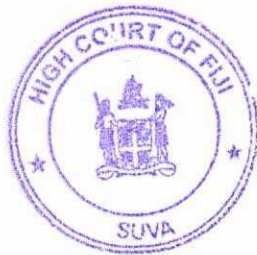
Hearing on : 25th June - 27th June 2018


Ruling on : 27th June 2018

VOIR DIRE RULING

1. The prosecution wants to rely on certain admissions allegedly made by the accused during arrest, the cautioned interview and the charge statement as evidence during the trial.
2. The accused initially challenged the admissibility of the cautioned interview and the charge statement. However, during the cross examination of the interviewing officer, it was suggested that the accused did not make the admissions in the cautioned interview and he was simply made to sign the record of interview. Thereafter, upon inquiry, the defence counsel confirmed that the accused's position is that he did not make the admissions in the cautioned interview and he did not give the answers that appear in the charge statement. Accordingly, it was clear that the accused's claim is that the cautioned interview and the charge statement were fabricated by the police and that is not a matter to be determined in a *voir dire*.

3. Therefore, the focus of this *voir dire* will be only on the alleged verbal admissions made by the accused during arrest.
4. Upon examining the evidence given by the prosecution witnesses, in particular the first prosecution witness who is the arresting officer, I find that the account given with regard to what took place during the arrest and also at the farm house where the alleged admissions were made by the accused is not clear.
5. For that reason, I find that the prosecution has not established beyond reasonable doubt that the alleged admissions were made by the accused on his free will after having understood that he had the right to remain silent and also that what he say will be used as evidence against him.
6. In the circumstances, I rule that the admissions allegedly made to the first prosecution witness during arrest are inadmissible in evidence.




Vinsent S. Perera
JUDGE

Solicitors;
Office of the Director of Public Prosecution, Suva for State.
MIQ Lawyers, Suva for Accused.