

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

**Criminal Case No: HAC 194 of 2018**

**STATE**

**V**

**ALIPATE RAVUNICAGI CAWI & ANOTHER**

**Counsel** : Ms. S. Naibe for the State.  
: Ms. J. Singh [LAC] for the Accused.

**Date of Sentence** : 27 March, 2019

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**SENTENCE**

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1. The accused is charged with another by virtue of the following information filed by the Director of Public Prosecutions dated 26<sup>th</sup> November, 2018.

**Count One**

*Statement of Offence*

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

*Particulars of Offence*

**ALIPATE RAVUNICAGI CAWI and SAIRUSI LENA**, on the 17<sup>th</sup> day of October, 2018 at Lautoka in the Western Division robbed SATISH

CHANDRA of his cash of \$250.00 and 1 x mobile phone valued at \$500.00 and immediately before such robbery used personal violence on the said SATISH CHANDRA.

**Count Two**

*Statement of Offence*

**DRIVING MOTOR VEHICLE WITHOUT BEING A HOLDER OF A**

**VALID DRIVING LICENSE:** Contrary to Section 56 (3) (a), (6) and 114 of the Land Transport Act of 1998.

*Particulars of Offence*

**ALIPATE RAVUNICAGI CAWI and SAIRUSI LENA**, on the 17<sup>th</sup> day of October, 2018 at Lautoka in the Western Division, drove a motor vehicle registration number LT 992 on Qalitu Road without being a holder of a valid driving licence.

2. On 20<sup>th</sup> December, 2018 the first accused Mr. Cawi pleaded guilty in the presence of his counsel to the above two counts. Thereafter on 28<sup>th</sup> February, 2019 the accused admitted the summary of facts read by the State Counsel.
3. The summary of facts are as follows:

*The complainant in this matter is SATISH CHANDRA (PW1), 60 years old, Taxi Driver of Vuda back Road, Lautoka.*

*The accused in this matter is ALIPATE RAVUNICAGI CAWI, 28 years old, Cane cutter of Manumanu, Mataso, Ra.*

*On the 17<sup>th</sup> of October 2018 at about 3pm, PW1 was driving a taxi registration number LT 992 which was parked in front of BSP Bank at Tukani Street, Lautoka.*

Whilst parked in front of the bank he noticed the accused with another iTaukei man. They boarded his taxi and told him to take them to Qalitu. PW1 agreed to take them and the accused sat in the front passenger seat while the other man sat at the back. PW1 switched the taxi meter on and drove them to Qalitu. Whilst entering Qalitu Road about half kilometer inside the accused asked PW1 to turn into a feeder road. PW1 turned into the feeder road and as they were travelling for a few meters in, the accused told PW1 to get out of the car. PW1 parked the car and the man sitting behind them got off and dragged PW1 out of the car and into the back seat. The accused then sat in the driver's seat and drove the car. PW1 lay in between the front and back seats and the other man sat on his back. PW 1 yelled and both men told him to keep shut or else they will kill him. The accused drove the car for a while and after that he switched with the second man. The accused tied PW1's hands when PW1 was trying to look up, the accused kept pushing his head down. After 30 minutes the car stopped and the accused with another grabbed the money inside the counsel box which was about \$40.00 worth of coins, PW1's wallet containing \$210.00 and mobile phone. Before leaving PW1, both men threw the car keys and left PW1 behind. PW1 then got up, untied himself and searched for the key. PW 1 then found the key and drove to the Police Station to report the matter.

4. After considering the summary of facts read by the State Counsel which was admitted by the accused and upon reading his caution interview, this court is satisfied that the accused has entered an unequivocal plea of guilty on his own free will. The accused admitted committing both the alleged offences in the company of another person.
5. This court is also satisfied that the accused has fully understood the nature of the charges and the consequences of pleading guilty. The

summary of facts admitted by the accused satisfies all the elements of both the offences.

6. In view of the above, this court finds the accused guilty as charged and he is convicted accordingly.
7. The two offences for which the accused has been convicted are founded on the same facts hence it is only proper that an aggregate sentence be imposed.
8. Section 17 of the Sentencing and Penalties Act states:

*“If an offender is convicted of more than one offence founded on the same facts, or which form a series of offences of the same or a similar character, the court may impose an aggregate sentence of imprisonment in respect of those offences that does not exceed the total effective period of imprisonment that could be imposed if the court had imposed a separate term of imprisonment for each of them.”*
9. Taking into account section 17 of the Sentencing and Penalties Act I prefer to impose an aggregate sentence of imprisonment for the two offences.
10. The learned counsel for the accused presented the following personal details and mitigation on behalf of the accused:
  - a) The accused was 28 years of age at the time of the offending;
  - b) He was a cane cutter;
  - c) Cooperated with Police;
  - d) Married with three children eldest being 6 years of age and the youngest 6 months;
  - e) He is truly remorseful for what he has done;

- f) Has pleaded guilty at the first available opportunity.

### **TARIFF**

11. The maximum penalty for the offence of aggravated robbery is 20 years imprisonment. The maximum penalty for the offence of driving motor vehicle without being a holder of a valid driving licence is a fine of \$200.00 in default 30 days imprisonment for the first offence and for second offence a fine of \$1000.00 in default 6 months imprisonment and disqualification for 12 months. The tariff for the offence of aggravated robbery is a term of imprisonment from 8 years to 16 years as stated by the Supreme Court in *Wallace Wise -vs.- The State, CAV 0004 of 2015 (24<sup>th</sup> April, 2015)*.

### **AGGRAVATING FEATURES**

#### **Planning**

12. The accused and another had carefully planned their unlawful activity by pretending to be genuine passengers.

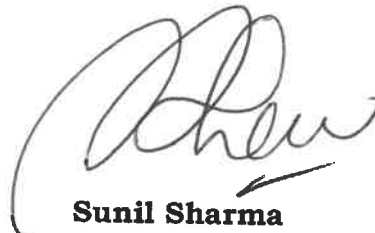
#### **Public Service Provider**

13. The victim was a public service vehicle licence holder who was misled by the accused into believing that it was a genuine hire of his taxi. The victim was providing a service to a member of the public. He was helpless, alone and vulnerable at the time of the offending.
14. Considering the objective seriousness of the offending, I select 8 ½ years imprisonment (lower range of the tariff) as the aggregate sentence of both the offences. For the aggravating factors I increase the sentence by 4 years imprisonment.

15. The interim sentence is now 12 ½ years imprisonment.
16. You have pleaded guilty early and I accept this as genuine remorse, for this I reduce the sentence by 3 years. The sentence now stands at 9 ½ years imprisonment. For the mitigation the sentence is further reduced by 6 months. You have two previous convictions, one of similar offence therefore you do not receive any discount for good character.
17. The interim sentence is now 9 years imprisonment being your aggregate sentence for the two offences.
18. The accused was in remand for 5 months and 5 days in accordance with section 24 of the Sentencing and Penalties Act, I further reduce the sentence for the remand period.
19. The accused is sentenced to 8 years 6 months and 25 days imprisonment.
20. Having considered section 4 (1) of the Sentencing and Penalties Act and the serious nature of the offences committed on the victim compels me to state that the purpose of this sentence is to punish offenders to an extent and in a manner which is just in all the circumstances of the case and to deter offenders and other persons from committing offences of the same or similar nature.
21. Under section 18 (1) of the Sentencing and Penalties Act, I impose 7 ½ years as a non-parole period to be served before the accused is eligible for parole. I consider this non-parole period to be appropriate in the rehabilitation of the accused and to meet the community expectation which is just in the circumstances of this case.

22. Mr. Cawi you have committed a serious offence on an unsuspecting and innocent public service vehicle driver who was carrying out his normal public service duties. This court denounces your behaviour in the strongest of terms. The court will not tolerate offenders who engage themselves in such kind of anti- social behaviour.
23. In summary the accused is sentenced to 8 years, 6 months and 25 days imprisonment with a non-parole period of 7 ½ years to be served before the accused is eligible for parole.
24. 30 days to appeal to the Court of Appeal.



  
**Sunil Sharma**  
**Judge**

**At Lautoka**

27 March, 2019

**Solicitors**

**Office of the Director of Public Prosecutions for the State.**

**Office of the Legal Aid Commission for the Accused.**