

IN THE HIGH COURT OF FIJI AT SUVA

CASE NO: HAC. 148 of 2019

[CRIMINAL JURISDICTION]

STATE

V

VILIAME GUKISUVA

Counsel : Ms. S. Lodhia for the State
Ms. S. Daunivesi for the Accused

Hearing on : 28 – 30 July 2020

Summing up on : 30 July 2020

Judgment on : 31 July 2020

JUDGMENT

1. The accused is charged with the following offences;

COUNT 1

Statement of Offence

Aggravated Burglary: contrary to Section 313 (1)(a) of the Crimes Act, 2009.

Particulars of Offence

VILIAME GUKISUVA on the 16th day of April, 2019 at Tacirua in the Central Division, in the company of another, entered into the dwelling house of **SADHNA DEVI** as trespassers, with intent to commit theft therein.

COUNT 2

Statement of Offence

Theft: contrary to Section 291 (1) of the Crimes Act, 2009.

Particulars of Offence


VILIAME GUKISUVA on the 16th day of April, 2019 at Tacirua in the Central Division, in the company of another, dishonestly appropriated \$60 cash, 1x Samsung brand S6 mobile phone, 1x RIUO brand tablet, 1x Samsung brand J1 mobile phone, 1x wrist watch and 1x school bag, the properties of **SADHNA DEVI** with intention of permanently depriving **SADHNA DEVI** of her properties.

2. The assessors were divided in their opinion. Majority opined that the accused is guilty of both counts as charged and one assessor returned with the opinion that the accused is not guilty of both counts.
3. I direct myself in accordance with the summing up delivered to the assessors on 30/07/20 and the evidence adduced during the trial.
4. Four witnesses gave evidence on behalf of the prosecution and the accused opted to remain silent when his rights under section 231(2) of the Criminal Procedure Act 2009 were explained.
5. The fact that the offence of aggravated burglary and the offence of theft were committed by two persons on 16/04/19 at PW1's house is not in dispute. The main trial issue was whether the accused in this case was one of those two offenders where the defence claimed that this is a case of mistaken identity.
6. PW1 was a credible and a reliable witness. It is clear that the majority of the assessors were satisfied beyond reasonable doubt that PW1 was not mistaken when she recognised one of the two persons who committed the two offences as

the accused in this case. It was open for them to reach that conclusion based on the evidence presented during the trial.

7. I agree with the majority opinion of the assessors. I find the accused guilty of each count as charged and hereby convict him accordingly.




Vinsent S. Perera
JUDGE

Solicitors;

**Office of the Director of Public Prosecutions for the State
Legal Aid Commission for the Accused**