

IN THE HIGH COURT OF FIJI

AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 180 OF 2019S

STATE

vs

- 1. SULIANO NAKULANIKORO ROKOSUKA**
- 2. ROBERT RAY WILLIAM SAUTU**
- 3. NONAVU LALANABARAVI VAKATAWANAVANUA**
- 4. EPELI RATABACACA**

Counsels : Ms. B. Kantharia for State
Ms. L. Ratidara for Accused No. 1
Ms. A. Singh for Accused No. 2
Ms. A. Singh for Accused No. 3
Ms. L. Ratidara for Accused No. 4

Hearings : 16 October, 6 and 25 November, 2020.

Sentence : 5 March, 2021.

SENTENCE

1. On 16 October 2020, the following amended information was put to the accuseds, in the presence of their counsels:

“Count 1

Statement of Offence

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

Particulars of Offence

SULIANO NAKULANIKORO ROKOSUKA, ROBERT RAY WILLIAM SAUTU, NONAVU LALANABARAVI VAKATAWANAVANUA and EPELI RATABACACA on the 7th day of May, 2019, at Samabula in the Central Division, in the company of each other robbed one SHALINI PRATAP of \$4,324.50-cash, 3 x gross Benson & Hedges, 1 x gross Benson & Hedges zesty, 2 x Benson & Hedges zesty 20s, 24 x Woodstock 440ml cans, 3 x bottle Sacred Hill wine shiraz, 5 x \$25 Vodafone recharge cards, 10 x \$15.00 Vodafone recharge, 15 x \$11 Vodafone recharge, 15 x \$7.00 Vodafone recharge, 17 x \$2 Vodafone recharge, 4 x \$20 Vodafone Quick Dial, 15 x \$10 Quick Dial (Vodafone) and 1 x blue track jacket the property of B. PRATAP SUPERMARKET and immediately before stealing these items used force on SHALINI PRATAP an employee of B. PRATAP SUPERMARKET.

Count 2

Statement of Offence

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

Particulars of Offence

SULIANO NAKULANIKORO ROKOSUKA, ROBERT RAY WILLIAM SAUTU, NONAVU LALANABARAVI VAKATAWANAVANUA and EPELI RATABACACA on the 7th day of May, 2019, at Samabula in the Central Division, in the company of each other robbed one ROHINESH PRASAD of \$200.00 – cash and 1 x Intex branded mobile phone the property of ROHINESH PRASAD and immediately before stealing these items used force on ROHINESH PRASAD.

Count 3

Statement of Offence

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

Particulars of Offence

SULIANO NAKULANIKORO ROKOSUKA, ROBERT RAY WILLIAM SAUTU, NONAVU LALANABARAVI VAKATAWANAVANUA and EPELI RATABACACA on the 7th day of May, 2019, at Samabula in the Central Division, in the

company of each other robbed one FRANK KADE of \$200.00 – cash and 1 x Blu branded mobile phone the property of FRANK KADE and immediately before stealing these items used force on FRANK KADE.”

2. Accused No. 1 was not present. Previously, he had not attended court for a total of approximately 9 months. Accused No. 2, 3 and 4 were present in court. They said they understood the charge when it was read over and explained to them. Accused No. 3 and 4 pleaded guilty to all the counts, that is, count no. 1, 2 and 3. Accused No. 2 pleaded guilty to count no. 1, and not guilty to count no. 2 and 3. On 6 November 2020, Accused No. 2, in the presence of his counsel, pleaded guilty to all the counts, that is, count no. 1, 2 and 3. The court had decided to deal with accused no. 2, 3 and 4 as they had pleaded guilty to all the counts and deal with Accused no. 1 later. Accused No. 1 had been sought on a Bench Warrant.

3. On 25 November 2020, the prosecution presented her summary of facts in court. Briefly they were as follows. On 7 May 2019, the day of the three “aggravated robberies”, Accused No. 2 was 19 years old, Accused No. 3 was 32 years old and Accused No. 4 was 17 ½ years old, a juvenile. Accused No. 2 and 4 lived in Naivikinikini, Lami, while Accused No. 3 resided at Veisari Settlement, near Lami. Accused No. 2 and 4 were somewhat related and both were unemployed at the time. They appeared single with no children. Accused No. 2 reached Form 5 level education at Suva Adventist College in 2016, while Accused No. 4 was a carpentry student at the Technical College at Monfort Boys Town. Both Accused No. 2 and 4 resided with their parents and siblings.

4. Accused No. 3 had been married for 8 years, with 4 young children aged between 7 and 11 year old. He earns his living by driving private cars for a fee. According to the prosecution, prior to the robberies on 7 May 2019, Accused No. 2, 3 and 4 were

low on money. On 7 May 2019, Accused No. 2 and 4 were met by another at Lami Town, and that person suggested they commit a robbery to get some money. The other person knew Accused No. 3, and on that day, got into Accused No. 3's car, at Lami. Accused No. 3 was driving a blue Prius Toyota Hybrid, registration number JK 416. Later, Accused No. 3 and that other person, picked up Accused No. 2 and 4 at Lami Town. From Lami Town, Accused No. 2, 3, 4 and the other person went towards B. Pratap Supermarket at Moti Street in Samabula. They were travelling in Accused No. 3's car, JK 416. Accused No. 3 was driving.

5. On the way to the supermarket, the other person issued instructions to Accused No. 2 and 4 on how the robbery would be done in the supermarket. The other person also issued instructions to Accused No. 3 on how to survey the target supermarket and how to take them there and how to drive them away after the robbery. The supermarket had CCTV covering the same. At the material time, the other person, Accused No. 2 and 4 went into B. Pratap Supermarket. They were armed with knives and sharp shifters. As a group, they attacked two employees of the supermarket, including a customer, Mr. Frank Kade. The two employees were Ms. Shalini Pratap and Mr. Rohinesh Prasad. All three were threatened with a knife and shifters and were warned not to resist, or they will be injured. Mr. Prasad was punched in the face.
6. Later, the other person, Accused No. 2 and 4 stole the items mentioned in counts no. 1, 2 and 3 and fled the crime scene, at first on foot. Later, they caught up with Accused No. 3, who was waiting in the car, somewhere near Boron Road. Accused No. 3 later drove the other person, Accused No. 2 and 4 away from Boron Road towards Lami, where they shared the stolen properties.

7. The court then checked with each accused on whether or not, they agree with and admitted the above summary of facts. Through their counsels, all three accuseds admitted the above summary of facts, including the particulars of the offences in count no. 1, 2 and 3. As a result of the above admissions, the court found each accused guilty as charged, and because Accused No. 2 and 3 were adults, convicted them as charged.
8. The prosecution said, all three accuseds were first offenders. Their counsels submitted written pleas in mitigation. Verbally, Accused No. 2 said through his counsel, that he was 20 years old, was single, but had a 2 year old son. He said, he previously worked as a chef earning \$160 per week. He said, he is a first offender and that he pleaded guilty to the offence. He said, he had been remanded in custody for 1 ½ years. Accused No. 3, through his counsel said, he was 32 years old, married with 4 young children between 7 and 11 years old. He said, he worked as a driver, earning \$100 per week. He said, he was a first offender and that he pleaded guilty to the offences. He said, he had been remanded in custody for 1 ½ years. Accused No. 4, through his counsel said, he was a juvenile at the time of the offence. He was 17 ½ years old. He said, he was studying at Monfort Boys College to be a carpenter. He said, he is a first offender and he pleaded guilty to the offence.
9. “Aggravated Robbery”, as a criminal offence, is viewed seriously by the law-makers of this country, and it carried a maximum sentence of 20 years imprisonment. For a spate of robberies, the tariff is a sentence between 10 to 16 years imprisonment: see **Livai Nawalu v The State**, Criminal Appeal No. CAV 0012 of 2012, Supreme Court of Fiji. With a single case of aggravated robbery, the tariff is now a sentence between 8 to 16 years imprisonment: see **Wallace Wise v The State**, Criminal Appeal No. CAV 0004 of 2015, Supreme Court of Fiji. The actual sentence will depend on the aggravating and mitigating factors.

10. The aggravating factors, in this case, were as follows:
- (i) **Cowardly Attack on Supermarket Workers and Customer.** As for Accused No. 2 and 4, you two followed the other person into B. Pratap Supermarket, and violently threatened two employees. You two threatened Ms. Shalini Pratap with a knife and told her not to resist or she will be injured. You two then attacked Mr. Rohinesh Prasad by threatening him with a knife and then punched him on the face. You two also threatened to kill Mr. Frank Kade if he resisted. You then stole their properties as itemized in the charge. Your behaviors fell below the standard required in a civilized society. People are entitled to conduct their business peacefully without hindrance from people like you. Accused No. 3, although you are the get-away driver in this case, you are just as bad as the others. Through your driving, you lent assistance to the violent robberies. All of you will have to be punished, as a warning to others. You must not complain about the sentence.
 - (ii) **Offence carried out with pre-planning.** In committing the offences, all of you did some pre-planning. You all selected the target, then got your transport through Accused No. 3, got some knives as weapons, covered your faces, surveyed the crime scene before the attack, then launched the attack on the unsuspecting complainants.
 - (iii) By offending against the complainants, you caused them untold sufferings. You had no regards to their rights as human beings and you had no regard to their property rights.
11. The mitigating factors were as follows:
- (i) For all of you, this was your first offence;
 - (ii) You all pleaded guilty to the charges, although this was after 1 year 4 months 19 days after first call in the High Court for Accused No. 3 and 4; and 1 year 5

months 6 days after first call for Accused No. 2. You all saved some court time.

- (iii) For Accused No. 2 and 3, you had been remanded in custody since 13 May 2019, that is, 1 year 7 months 19 days ago. As for Accused No. 4, he was remanded in custody for 14 days.
 - (iv) The value of the properties stolen was less than \$9,000 approximately. In a sense this was a low level unsophisticated amateurish type of robberies. No one was seriously hurt or suffered life threatening injuries.
12. You three committed three aggravated robberies in a single day. Although Accused No. 3 was acting as the get-away driver, you were part of the group in that you aided and abetted Accused No. 2, 4 and the other person commit the offences in count no. 1, 2 and 3. The applicable tariff therefore was the one set by Livai Nawalu v The State (supra), that is, 10 to 16 years imprisonment.
13. On count no. 1, I start with 10 years imprisonment. I add 4 years for the aggravating factors, making a total of 14 years imprisonment. For being first offenders, I deduct 4 years for each of you, leaving a balance of 10 years imprisonment. For pleading guilty to the offences, I deduct another 3 years for each of you, leaving a balance of 7 years imprisonment. For Accused No. 2 and 3, I deduct another 1 year 8 months, for time already served while remanded in custody, leaving a balance of 5 years 4 months imprisonment, for Accused No. 2 and 3. I deduct another 1 year 4 months from Accused No. 2 and 3's sentence, leaving a balance of 4 years imprisonment, for the low level unsophisticated amateurish ways of the robberies. The balance for Accused No. 2 and 3 are 4 years imprisonment. Given the facts of this case, I find Accused No. 4 a depraved and unruly character, and I sentence him to 2 years imprisonment, the limit for any juvenile.

14. I repeat the above process for count no. 2 and 3.
15. In summary, your sentences are as follows:
- (i) Count no. 1: Aggravated Robbery: Accused no. 2 - 4 years imprisonment
Accused no. 3 - 4 years imprisonment
Accused No. 4 – 2 years imprisonment
 - (ii) Count no. 2: Aggravated Robbery: Accused no. 2 - 4 years imprisonment
Accused no. 3 - 4 years imprisonment
Accused No. 4 – 2 years imprisonment
 - (iii) Count no. 3: Aggravated Robbery: Accused no. 2 - 4 years imprisonment
Accused no. 3 - 4 years imprisonment
Accused No. 4 – 2 years imprisonment
16. Because of the totality principle of sentencing, I direct that all the above sentence be made concurrent to each other, making a final total sentence for each accused, as follows: Accused No. 2 and 3 are imprisoned for 4 years each; while Accused No. 4 is imprisoned for 2 years.
17. Mr. Robert Ray William Sautu (Accused No. 2), Mr. Nonavu Lalanabaravi Vakatawanavanua (Accused No. 3) and Mr. Epeli Ratabacaca (Accused No. 4), for committing “three aggravated robberies” on 7 May 2019, at Samabula in the Central Division, I sentence you as follows. Because Accused No. 2 and 3 were adults at the time of the offendings, both are sentences to 4 years imprisonment each, effective forthwith. I will not impose a non-parole period. As for Accused No. 4, because you were a juvenile at the time of the offences and showed your character as depraved and unruly at the time of the offendings, I sentence you to 2 years imprisonment, the same to be suspended for 18 months. Meaning of suspended sentence explained to Accused No. 4.

18. All of you have 30 days to appeal to the Court of Appeal.



A handwritten signature in blue ink, appearing to be "Salesi Temo".

Salesi Temo
JUDGE

Solicitor for the State : Office of the Director of Public Prosecution, Suva.
Solicitor for the Accuseds : Legal Aid Commission, Suva.