

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

**CRIMINAL CASE NO. 44 OF 2019**

**BETWEEN**

**STATE**

**V**

- 1. SUNIT VENKAT RAM**
- 2. ANUSHEEL ANSAL CHAND**
- 3. DEVNEEL DHIRAJ RAM**
- 4. AKSHAY NAWAL RAJU**

|                             |   |   |
|-----------------------------|---|---|
| <b>Counsel</b>              | : | Ms. P. Lata for the State               |
|                             | : | Ms. A. Bilivalu for the Second Accused. |
|                             |   | Ms. P. Reddy for the Third Accused.     |
|                             |   | Ms. N. Sharma for the Fourth Accused.   |
| <b>Dates of Hearing</b>     | : | 15, 16, 17, 22 November, 2021           |
| <b>Closing Speeches</b>     | : | 23 November, 2021                       |
| <b>Date of Judgment</b>     | : | 24 November, 2021                       |
| <b>Sentence Submissions</b> | : | 01 December, 2021                       |
| <b>Date of Sentence</b>     | : | 03 December, 2021                       |

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**S E N T E N C E**

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1. In a judgment delivered on 24<sup>th</sup> November, 2021 this court found the second, third and fourth accused persons guilty and convicted them for one count of aggravated robbery as charged. For completeness it is

important to note that the first accused Sunit Ram has been dealt with on 16<sup>th</sup> November, 2021 after he had pleaded guilty.

2. The brief facts were as follows:

On 20<sup>th</sup> February, 2019 at about 2.30pm the victim Ratan Devi, Head Cashier of Yees Cold Storage went to the ANZ Bank, Namaka to bank the company's cash and cheques to the total value of \$80,060.45. As the victim was about to enter the bank the first accused came and grabbed the money bag from the victim's hands and ran to a waiting car.

The getaway car was driven by the fourth accused who drove the first accused away, some people tried to catch the first accused but were not successful.

3. The second and the third accused persons were on the lookout when the robbery was taking place. All the accused persons had planned to rob the victim that afternoon and they were communicating with each other via call conferencing.
4. After leaving the crime scene all the accused persons met and shared the stolen cash of \$10,874.50. The matter was reported to the Namaka Police Station, upon investigation the accused persons were arrested, caution interviewed and charged.
5. All counsel filed sentence and mitigation submissions for which this court is grateful.
6. The learned counsel for the accused persons presented the following mitigation:

A. ANUSHEEL ANSAL CHAND

- (a) The accused is a first offender;
- (b) He was 20 years at the time;
- (c) Is in a defacto relationship, has a daughter who is 1 year and 8 months old;
- (d) Was employed as a shop Manager earning \$150.00 per week;
- (e) Substantial recovery of the stolen cheques;
- (d) \$500.00 cash recovered.

B. DEVNEEL DHIRAJ RAM

- (a) The accused is a first offender;
- (b) He was 25 years at the time;
- (c) Is a Fisherman who earns about \$150.00 per week;
- (d) Sole bread winner of the family;
- (e) Looks after elderly parents;
- (f) Substantial recovery of the cheques;
- (g) Cash of \$500.00 recovered.

C. AKSHAY NAWAL RAJU

- (a) The accused was 27 years at the time;
- (b) Was employed as an Office Assistant and Accounts officer;
- (c) Was earning \$400.00 fortnightly;
- (d) Eldest of 5 siblings;
- (e) Substantial amount of cheques recovered;
- (f) Cash of \$500.00 recovered.

**AGGRAVATING FACTORS**

7. The following aggravating factors are obvious;

(a) Planning/Premeditation

There is a high degree of planning involved they knew what was to be done and how they will do it. The accused persons were in contact through call conferencing at different points before the robbery.

(b) Hiding the car registration number plate

To avoid detection the number plate of the getaway car was covered with mud.

(c) Victim was unsuspecting

The victim was going about her normal work when all of a sudden one of the accused came grabbed the money bag from the victim's hand and ran away. A substantial amount of money was stolen.

(d) Daylight Robbery

The accused persons were undeterred and bold in what they did in front of a bank in broad daylight. This kind of offending has also become prevalent nowadays which does not augur well for the commercial sector.

(e) Breach of Trust

The fourth accused was the former Accounts Clerk of Yeas Cold Storage he breached the trust of his former employers by what he did.

## **TARIFF**

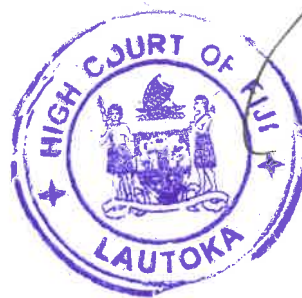
8. The maximum penalty for the offence of aggravated robbery is 20 years imprisonment. The accepted tariff for this offence is from 8 years to 16 years imprisonment (*Wallace Wise-v-The State, CAV0004 of 2015 (24 April, 2015)*). At this point, I would like to mention that the facts in *Wise* case is very different to what happened here. The case of *Wise* was a horrible early morning home invasion with knife and an iron bar by three people whereby the elderly complainant was injured by a knife requiring a stitch under his left eye.
9. I am mindful that this case has a different set of facts compared to the case of *Wallace Wise* therefore strict adherence to the above tariff in my view will result in an excessive sentence. The current sentencing tariff for street mugging is 18 months to 5 years imprisonment (*Raqauqau vs. State, [2008] FJCA 34, AAU 100.2007 (4 August, 2008)*), Home invasion 8 to 16 years, spate of robberies 10 to 16 years imprisonment (*Nawalu vs. State, [2013] FJSC 11, CAV 0012 of 2012 (28 August, 2013)*).
10. I do get some comfort in saying that the final sentence can be higher or lower than the accepted tariff depending upon the aggravating, mitigating factors, the nature and circumstances of the offending.
11. There are three accused persons with varying degree of participation. The mastermind of this robbery was the fourth accused as the former Accounts Clerk of Yees Cold Storage he obviously knew about the banking times of the victim. The fourth accused was the one who had initiated the plan and worked out the logistics of call conferencing and placed the second and the third accused at strategic points as lookouts or watchmen. As the driver of the getaway car he had parked the vehicle at a place where his accomplice could get in the car easily and be driven away.

12. I therefore prefer to begin my sentence with the fourth accused. Considering the objective seriousness of the offence committed, I select 6 years imprisonment as the starting point of the sentence. For the aggravating factors, I increase the sentence by 3 ½ years. The interim sentence is 9 ½ years imprisonment.
13. The accused is a young offender (27 years at the time) but he does not come to court with a clean record, in 2014 he was convicted for one count of theft hence he does not receive any discount for good character. However, for other mitigating factors, the sentence is reduced by 1 year. The sentence is now 8 ½ years imprisonment.
14. From the court file, it is noted that this accused was in remand for 27 days. In accordance with section 24 of the Sentencing and Penalties Act and in exercise of my discretion I deduct 1 month as a period of imprisonment already served. The final sentence is 8 years and 5 months imprisonment.
15. For the second and the third accused, I have taken their sentencing together due to the similarity of their role in this robbery (lookouts). I have also taken into account the character references attached to the mitigation of these accused persons. Considering the objective seriousness of the offence committed and the facts in this case being different from the *Wallace Wise* case, I select 6 years imprisonment as the starting point of the sentence. For the aggravating factors, I increase the sentence by 3 years. The interim sentence is 9 years imprisonment.
16. Both the accused persons are first and young offenders (second accused was 20 years and the third accused was 25 years at the time) they come to court with good character. For good character and other mitigating

factors they receive a discount of 1 ½ years. The sentence is now 7 ½ years imprisonment.

17. From the court file it is noted that the second accused person was remanded for 2 months. After deducting the remand period the final sentence for the second accused is 7 years and 4 months imprisonment.
19. The third accused was remanded for 1 month and 12 days. In accordance with section 24 of the Sentencing and Penalties Act and in exercise of my discretion I deduct 1 month and 15 days as a period of imprisonment already served.
19. The final sentence for the third accused is 7 years, 4 months and 15 days imprisonment.
20. Having considered section 4(1) of the Sentencing and Penalties Act and the serious nature of the offence committed 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 6 years imprisonment as the non-parole period for the second and third accused, as for the fourth accused I impose 6 ½ years as a non-parole period to be served by the fourth accused. I consider this non-parole period to be appropriate in the rehabilitation of all the accused persons and also meet the expectations of the community which is just in all the circumstances of this case.

22. Mr. Chand, Mr. Ram and Mr. Raju you cannot be forgiven for what you have done there is no short cut in life to make money, you must earn money with your hard work. What all of you did was a daring daylight robbery in front of a bank after much planning. All of you are able bodied persons who could have done better things in life than engage in such an illegal activity.
23. This court will be failing in its duty if a custodial sentence is not imposed no amount of regret or repentance will save you from a custodial sentence. A planned robbery of such magnitude deserves denunciation and a custodial sentence is the only answer to have deterrent effect.
24. In summary the second accused is sentenced to 7 years, 4 months' imprisonment with a non-parole period of 6 years. The third accused is sentenced to 7 years 4 months and 15 days imprisonment with a non-parole period 6 years imprisonment and the fourth accused is sentenced to 8 years and 5 months imprisonment for one count of aggravated robbery with a non-parole period of 6 ½ years to be served before he is eligible for parole.
25. 30 days to appeal to the Court of Appeal.



  
**Sunil Sharma**  
**Judge**

**At Lautoka**

03 December, 2021

**Solicitors**

Office of the Director of Public Prosecutions for the State.

Office of the Legal Aid commission for the Accused.