

IN THE HIGH COURT OF FIJI

AT SUVA

[CRIMINAL JURISDICTION]

CRIMINAL CASE NO. HAC 241 OF 2021

BETWEEN : **STATE**

AND : **SIVANIOLO VUNAKECE**

Counsel : Ms U Tamanikaiyaroi with Mr J Singh for the State
Mr W Navuni for the Accused

Date of Hearing : **20 March 2023 – 23 March 2023**

Date of Judgment : **23 August 2023**

Date of Sentence : **21 September 2023**

SENTENCE

- [1] This is a domestic homicide. The accused and the victim were in a live in relationship. When the victim was killed she was living with the accused in an informal settlement in Vatuwaqa. Their home was made of corrugated iron and timber and had basic amenities. The victim was a homemaker. She had a child with the accused who was given up for adoption after birth. At the time of her death the victim was 21 years old.
- [2] The accused is 47 years old. He worked as a mini-van driver and was the sole breadwinner for his family.
- [3] In the morning of Sunday, 24 October 2021, the accused took the victim out to drink alcohol in the settlement with other residents. After midday they returned home and the accused went to sleep.

- [4] When the accused woke up from his sleep in the afternoon the victim was not in the house. He suspected that she stole his money. He was agitated and angry. He went and looked around in the settlement for the victim. A relative who lived next to the accused accompanied the accused. The relative was concerned for the safety of the victim. The neighbours and the relatives have witnessed the accused physically abusing the victim on previous occasions. The accused was the controlling partner in the relationship.
- [5] The accused eventually found the victim drinking underneath a tree with some of her friends from the settlement. He was furious to find the victim was drinking alcohol. He suspected that she used his money to buy drinks.
- [6] After pulling the victim out from the drinking group, he started physically assaulting her. He punched her in the face. He took a timber that was lying around and hit her on the back. She fell down. He kicked and stomped her. She got injured and started bleeding. She fell down several times but he made her stand up and gave her further beatings till she urinated and was unable to walk. He then carried her on his shoulders to their home. He inflicted further violence on her upon arriving at their home.
- [7] The duration of assault was about 20 to 30 minutes. When the police officers arrived at their home, they found the victim inside the bathroom in her undergarments and covered with blood. She had visible injuries all over her body. She suffered brain and chest injuries. Her ribs were fractured. She died on the same day.
- [8] The accused was charged with murder. He pleaded not guilty to the charge. He ran a defence of provocation. If accepted the charge would have been reduced to

manslaughter. But the court rejected that the killing was under provocation and convicted the accused of murder.

- [9] The penalty for murder is life imprisonment. The only sentencing discretion available to the Court is to set a minimum term before a pardon may be considered.
- [10] This is a case of domestic violence resulting in death of the victim by her partner. The nature of the crime requires condemnation in the strongest terms. A life was taken away by the very person who should have protected the victim. She was someone's daughter and a mother. She did not deserve to die at the hands of a man who she was having intimate relationship with.
- [11] The victim was killed in an inhumane and degrading manner. She was subjected to public display of violence. The onlookers did not assist her.
- [12] When the victim collapsed and urinated, the accused carried her on his shoulders like an animal that had been hunted down and killed. He inflicted further violence on her inside their home when she was completely helpless. The accused did not show any mercy to her. When the police attended to the scene, the victim was lying in the bathroom only with her undergarments on.
- [13] To some degree the violence was fueled by alcohol. The accused has not expressed any remorse for his crime. During the trial, attempts were made to malign the character of the victim by labelling her as a prostitute and a thief.
- [14] There was evidence of previous history of violence against the victim by the accused. The accused would make the victim strip to her undergarments and publicly reprimand her using violence.

- [15] This is a bad case of use of physical violence resulting in the death of a woman by her partner. There is very little mitigating factors present.
- [16] The accused spent about two years in custody on remand awaiting trial.
- [17] The accused is sentenced to life imprisonment with a minimum term of 25 years to serve before any pardon may be considered.
- [18] The accused may appeal within 30 days.



A handwritten signature in black ink, appearing to read "D. Goundar", is written over a horizontal dotted line.

Hon. Mr Justice Daniel Goundar

Solicitors:

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