

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

Criminal Case No.: HAC 37 of 2024

STATE

V

KOSITINO LATIANARA

Counsel : Mr T Tuenuku for the State
: Ms K Marama for the Accused

Date of Voir Dire : 24 March – 28 March 2025
Date of Ruling : 30 July 2025
Date of Trial : 18 – 21 August 2025, 8 – 9 December 2025
Closing Speeches : 2 January 2026
Date of Judgment : 20 February 2026

JUDGMENT

Introduction

1. On the morning of 19 March 2024, a dead body was discovered in the undergrowth at Waisali Hill, about 400 meters away from a taxi, registration number LT 7419, which had seemingly been abandoned at the roadside. The body was identified as Mr Amitendra Kumar (“the deceased”), a 28-year-old married man who worked part-time as a taxi driver after his regular working hours. He had been stabbed multiple times and his throat had been cut.
2. Mr Latianara (“the accused”) was arrested at his home on the night of 20 March 2024. On the morning of 21 March 2024, he was taken for medical

treatment for a serious cut on his left hand, and was admitted to Labasa Hospital.

3. He was discharged on the morning of 23 March 2024 and taken to Savusavu Police Station. His video recorded interview under caution (“the VRI”) was commenced at 4.34pm the same day.
4. He was provided with legal assistance under the Legal Aid Commission First Hour Scheme prior to the commencement of the VRI on 23 March 2024.
5. The VRI was conducted over the course of 23 March to 26 March 2024. The accused made a number of statements against interest amounting to a full confession to having murdered the deceased on 18 March 2024 by stabbing him multiple times and slitting his throat with a knife he brought to the scene for that purpose. He explained that he was motivated by a grievance that the deceased had cheated him out of payment for a bucket of marijuana that he had supplied to the deceased some weeks earlier.

Voir dire

6. The accused challenged the admissibility of the VRI and a voir dire was conducted between 24 March 2025 to 28 March 2025. At the conclusion of the voir dire, for the reasons given in my Ruling dated 30 July 2025, I ruled that Discs 01 to 03B were admissible in the trial proper, and that Discs 04 and 05 were inadmissible (“the VD Ruling”).

Trial proper

7. The truncated trial proper commenced on 18 August 2025 and ran for a total of 7 days over several months.
8. To provide appropriate context for what follows, the defence had indicated at the pre-trial stage that there was no issue that the accused had travelled to the scene of the murder in the deceased’s taxi. It was the defence case that other people committed the murder without the accused’s involvement.

9. The parties agreed a number of facts, including that:
- (i) On 18 March 2024, the accused came to Savusavu to search for the deceased.
 - (ii) The accused knew the deceased as he had sold a bucket of marijuana to him.
 - (iii) The accused got into the deceased's taxi at the Savusavu bus stand.
 - (iv) The accused had requested to be taken to Waisali, Savusavu.
 - (v) The accused was seated in the front passenger seat.
 - (vi) The deceased's body was discovered on the morning of 19 March 2024.
 - (vii) The deceased's taxi was discovered abandoned by the roadside at Waisali.
 - (viii) The deceased's body was recovered 400 meters from his taxi.
 - (ix) The post mortem was conducted on 21 March 2024.
 - (x) The accused was arrested on 20 March 2024.
 - (xi) The VRI discs 1 to 3B were to be tendered by consent.
 - (xii) Transcripts of discs 1 to 3B were to be tendered by consent.
 - (xiii) The Crime Scene Booklet and its contents were to be tendered by consent.

Prosecution case

10. In order to prove its case, the prosecution relies principally on the accused's voluntary full confession to having intentionally killed the deceased, motivated by not having received payment for a bucket of marijuana that he had supplied to the deceased. It is the prosecution's position that the confession is true. Circumstantial evidence was adduced to support the truth of the accused's statements against interest.
11. Mr Nemaia Qio testified that he was working as a bowser attendant at the Total Energy service station near to Yaroi village on 18 March 2024. At around 7.15pm, a taxi driven by the deceased came to fuel up. The deceased told him

that he wanted \$25.00 of fuel. The deceased passed the cash to him through the front seat passenger. There were no other passengers inside the taxi. It felt strange to Mr Qio that the deceased did not get out of the taxi because he normally made purchases from the shop when refueling. There was no dispute that the accused was the front-seat passenger.

12. Inspector Waqa read the English translation of the transcripts of discs 1 to 3B into the record. The discs, transcripts, and English translations were tendered in evidence. Inspector Waqa explained that the allegation put to the accused referred to him acting with others because, at that stage, they were not limiting the police investigation to a single suspect. They were open to the possibility of there being others involved in the murder. As it turned out, the investigation did not find any evidence indicating that others may have been involved in the incident.
13. At around 8pm on 18 March 2024, Mr Filimone Sarowaqali left Labasa in his taxi heading towards Savusavu. At around 9pm, he noticed a taxi parked on the right side of the road facing in the direction of Savusavu. His wife told him to find out whether that taxi was in need of assistance and he pulled over next to the taxi and tooted his horn. When there was no response, he continued on his journey. The taxi windows were up and its headlights and parking lights were on. There was no one inside the taxi.
14. Dr Praneel Kumar conducted a post mortem examination of the deceased on 21 March 2024. He documented several visible injuries. On the deceased's face, there was a superficial laceration. On his neck, there was an 80mm x 25mm transverse incised wound noted just above the thyroid cartilage. This wound started 10mm from the angle of the right mandible and terminated at the left mandible. The wound cut across all the soft tissues and opened into the larynx. In layman's terms, the deceased's throat had been cut. It was a huge open wound. Dr Kumar stated that this injury is 100% fatal because the deceased would not be able to breath in oxygen. There were also four stab wounds to the deceased's chest, most of them penetrating into the pleural cavity. That type of open chest wound requires urgent medical attention. Dr

Kumar opined that the chest wounds probably preceded the neck injury because a fit person is likely to put up a fight to resist his throat being cut. The condition directly leading to the deceased's death was asphyxia. The antecedent causes were aspiration of blood, bilateral hemothorax, and multiple stab wounds. The Post Mortem Report was tendered as PE-4.

15. When Ms Marama asked whether there were any signs that the deceased had put up a struggle, Dr Kumar replied that it was impossible to say. He said that it would be quite difficult for one person to cut the deceased's throat, but if he had been stabbed first he would have been more vulnerable, and would not have the capacity to protect himself because he would have been in pain and gasping for air. Dr Kumar accepted that it was possible that more than one person inflicted the deceased's wounds. In re-examination, he said that a single person could have inflicted all of the wounds.
16. ASP Gasio Rokodulu has served 16 years in the Forensic CSI Unit. On 19 March 2024, he was sent from Suva to assist the Northern Division CSI Unit. He examined the crime scene and produced a photographic booklet. There was a feeder road leading to where the deceased was found, 397 meters from his taxi, registration number LT 7419. The photographs were taken several hours after the body was found. It was raining that day. ASP Rokodulu conducted biological swabbing. The body was then sealed in a body bag to be escorted to Labasa. Swabs were also taken from inside the taxi. Finger nail clippings were taken from the deceased during the post mortem examination. A knife was uplifted from the crime scene at 11.55am on 25 March 2024. The Crime Scene Booklet was tendered as PE-6.
17. In cross-examination, ASP Rokodulu was asked about the procedures for taking swabs at the crime scene, specifically the measures to protect against contamination. He said that the deceased's finger nails were swabbed in order to ascertain whether there was any contact prior to his death.
18. Owing to the late compilation and disclosure of forensic DNA evidence, the trial was adjourned part-heard on 21 August 2025. The unavailability of the

Senior Scientific Officer and defence counsel meant that the trial did not resume until 9 December 2025.

19. The final witness for the prosecution was Ms Saurogo. She is a Senior Scientific Officer at the Fiji Police Forensic Biology and DNA Laboratory. Ms Saurogo has a degree in Applied Science from the Auckland University of Technology and has completed in-house training in DNA Extraction, Quantitation, Polymerase Chain Reaction and Capillary Electrophoresis. She has also attended training facilitated by Life Technologies, Australia.
20. Her laboratory conducted DNA analysis and interpretation of 12 exhibits recovered in the course of the police investigation. Swabs were taken from the deceased's right and left nail clippings. These provided the reference sample for the deceased. The accused's reference sample came from a buccal swab taken during the VRI. The accused cannot be excluded as a contributor to the DNA found on the deceased's right nail clippings, but Ms Saurogo was not able to say for certain that it was the accused's DNA. There were at least 3 people who contributed to the DNA recovered from the right nail clippings. Likewise, the accused cannot be excluded as a contributor to the DNA found on the deceased's left nail clippings. At least 4 people contributed to those clippings. The Forensic DNA Report was tendered as PE-17.
21. In cross-examination, Ms Saurogo confirmed that the DNA swabs were received by her laboratory on 24 March 2024. It was treated as a priority case as the reference sample of a known suspect was available. The DNA extraction was done in April 2024. Ms Saurogo acknowledged that secondary contact may explain the presence of the accused's DNA on the deceased's nail clippings. When Ms Marama suggested that the Forensic Biology and DNA Laboratory is not accredited locally and internationally, Ms Saurogo confirmed that to be the case and explained that her laboratory has in place certain guidelines and follows the scientific working group on DNA analysis method used by laboratories that are not accredited.

22. At the close of the prosecution case, the accused was explained his options and elected to remain silent. He did not call any witnesses in his case.

Closing submissions

23. The parties made helpful written and oral submissions for which the Court is grateful.
24. Given that the accused has made a full confession to murdering the accused, which I have found was made voluntarily, the main focus of Mr Tuenuku's submissions was the question whether the confession is true. He makes the overarching point that there was no evidence adduced at trial casting doubt on the truth of the accused's confession.
25. Mr Tuenuku specifically draws to my attention the evidence that supports the truth of what the accused said in the VRI. So, for example, Mr Qio's evidence of having seen the accused in the deceased's taxi at the Total Energy service station corroborates what the accused said in interview. Also, Mr Rokodulu's evidence supports the accused's account under caution of the taxi having been left at the roadside. The medical evidence is consistent with, and supports, the truth of the accused's descriptions of the injuries he inflicted on the deceased.
26. As for the defence case that the murder was committed by other people, without the accused's involvement, Mr Tuenuku highlights that the accused confessed to having acted alone.
27. In short, Mr Tuenuku submits that the Court can be sure that the confession establishes that the accused unlawfully killed the deceased, intending to cause his death.
28. Ms Marama submits that, aside from the confession, the prosecution case is circumstantial. The circumstantial evidence does not prove that it was the accused who murdered the deceased. The accused accepts that he was present at the crime scene, but denies killing the deceased. Ms Marama places reliance on Dr Kumar's evidence that it is possible that more than one

person inflicted the deceased's wounds and that a different knife may have been used to cut the deceased's throat.

29. Ms Marama was critical of the fact that it took more than one year to disclose the Forensic DNA Report. She also cited the recent Ruling of the single judge in *Bale v The State* [2025] FJCA 59; AAU 0040.2024 & AAU 0044.2024 (10 April 2025) in which the learned President of the Court of Appeal held that it is required by law that the Forensic Laboratory be accredited, and that accreditation of laboratories is critically important in ensuring the competency and reliability of results. Ms Marama contends that the laboratory's inconclusive results are likely "*a double blow*" to the accused. She asserts that the DNA was poor quality and the laboratory was not qualified to handle it properly.
30. In conclusion, Ms Marama submits that the prosecution has not proven beyond reasonable doubt that it was the accused who slit the deceased's throat and that the lack of proper analysis of the forensic evidence creates a reasonable doubt as to the accused's guilt.

Legal directions/warnings

31. The prosecution must prove that the accused is guilty. The accused does not have to prove anything to me. The defence does not have to prove that the accused is innocent. The prosecution will only succeed in proving that the accused is guilty if I have been made sure of his guilt. If, after considering all of the evidence, I am not sure that the accused is guilty, my verdict must be not guilty.

Analysis and resolution

32. The admissibility of the VRI was challenged by the accused. As already mentioned, I found the answers given in discs 1 to 3B to be admissible in evidence.
33. For the reasons given in the VD Ruling, I am sure that the accused's statements against interest in discs 1 to 3B were made voluntarily and that

there were no circumstances of general unfairness such as to warrant excluding those statements.

34. The issue at this stage is whether I am sure that the accused's statements against interest are true.
35. As will be seen below, if I am sure that the statements against interest are reliable and true, those admissions are determinative of the issue whether the accused is guilty of murdering the deceased.

The VRI

36. The accused's answers in the VRI provide a comprehensive narrative of his conduct leading up to the killing at Waisali, including his motivation, and his conduct at the time he inflicted the fatal injury on the deceased.
37. In the first part of the VRI (Disc 1), recorded on 23 March 2024, the accused explains that he travelled to Savusavu on 18 March 2024 to collect a payment of \$15,000.00 for a bucket of marijuana that he had supplied to the deceased several weeks earlier. He was tired of waiting for his money. He located the deceased that night at the taxi stand. He approached the deceased and asked to be driven to Waisali. The deceased did not recognise him. His purpose in being taken to Waisali was to kill the deceased. He explained that he was going to first ask the deceased about the money owed and, if he was paid, he would not have killed the deceased.
38. The accused described how they stopped at the Total Energy service station for fuel and the deceased handed him cash to pay the bowser attendant. This is a significant detail because it is consistent with Mr Qio's evidence.
39. It is also significant that the accused described the knife he brought from home. It was the knife usually used for slaughtering sheep. It was very sharp. The description matched the knife later recovered by the police from near to the crime scene.

40. At this juncture, it is pertinent to note that the accused told the interviewing officers that he and the deceased smoked marijuana together and were stoned. At a later stage in the VRI, he admitted that he was lying about this.
41. At Waisali, he told the deceased to get out of the taxi. It came to his mind that, if he killed the deceased, people would know that he was a taxi driver, so he ripped the sign from the roof of the taxi.
42. They walked up a hill to where the accused stabbed the deceased in his chest and slit his throat (the VRI shows the accused spontaneously demonstrating how he had used his knife to stab the deceased and slit his throat). He accidentally injured his own hand in the process of stabbing the deceased. It is pertinent to note that the accused later said that he stabbed the deceased's chest as he lay down *after* the accused had slit his throat.
43. After he killed the deceased, the accused's clothes were fully soaked with the deceased's blood and the blood from his own hand. He threw the knife away and returned to the taxi, where he changed his t-shirt and rested for a while.
44. The accused then described how he made his way back to Labasa.
45. The VRI continued on 24 March 2024. The accused was shown, and identified, a number of items uplifted from the crime scene, including items of clothing and his shaving gear. He consented to a buccal swab. The VRI was suspended for a scene reconstruction.
46. When the interview recommenced (Disc 2B), the accused was asked about the scene reconstruction. He confirmed that he had taken the police to the place where he had killed the deceased and the place where he had thrown his knife.
47. The VRI continued on 25 March 2024 (Disc 3). The accused admitted that he had lied about smoking marijuana with the deceased. They had just discussed about the money. He said that he had not been sleeping well, and it occurred to him to say that he was high as the reason for killing the deceased. He confirmed that he had not been high when he killed the deceased, and had

felt frightened after the killing. He said that the other answers he gave were not lies:

“The way in which I had killed him eh. All those things I did it by myself. Yes, the only thing that I lied about is just about the marijuana.”

Disposal

48. In my judgment, having viewed the admissible VRI and carefully considered the transcript, the accused provided a comprehensive, cogent, and credible narrative of how, when and why he murdered the deceased. I am sure that the accused told the truth about the essential aspects of the manner in which he killed the deceased. I am also sure that the accused acted alone in stabbing and slitting the deceased’s throat with a knife he brought with him, intending to kill the deceased. I cannot be sure whether he stabbed the deceased to his chest before or after he slit the deceased’s throat, but this is immaterial in light of my finding that the accused inflicted the fatal wound to the deceased’s neck with the intention of causing his death.
49. It follows from my analysis that I am sure that the accused is guilty as charged, and I convict him accordingly.

The DNA evidence

50. Before I leave this Judgment, it is appropriate that I say something about the defence criticism of the manner in which this case was investigated by the police, specifically the analysis of the forensic DNA evidence.
51. I make a couple of preliminary points. Firstly, the criticism was deployed with a view to creating a reasonable doubt that there may have been other people who travelled to the scene of crime in the deceased’s taxi and went on to kill him without any involvement of the accused whatsoever.
52. The problem with the defence case theory is that it is entirely speculative and wholly unsupported by evidence. Obviously, the presence inside the taxi of

DNA from other individuals would have had no evidential value to the defence case.

53. The accused confessed to the murder and did not implicate anyone else. He did not give evidence at trial.
54. It was Mr Qio's evidence that the accused and the deceased were alone in the taxi when they stopped at the service station for fuel. I consider the suggestion that they may have stopped to pick up other (murderous) passengers between the service station and Waisali to be fanciful.
55. Secondly, in reaching my verdict in this case, I have not attached any weight to the evidence that the DNA found under the deceased's fingernails may have been the accused's DNA. That evidence does not add anything to the prosecution case in light of the defence concession that the accused travelled to the scene of crime in the deceased's taxi, and his voluntary and truthful confession to murder.
56. I am nevertheless concerned that, save for the unwarranted delay in producing and disclosing the Forensic DNA Report, the criticism of the Fiji Police Forensic Biology & DNA Laboratory is both unfair and unreasonable.
57. Ms Marama is critical of the fact that the crime scene swabs taken from inside the taxi did not yield positive results for DNA. The short answer is provided in the Report, at para. 1.9 – DNA profiles could not be obtained from these exhibits due to insufficient DNA quantity.
58. Ms Marama's suggestion that this "*problem*" could have been avoided if the Fiji Police Forensic Laboratory was accredited, and international best practice was adopted is, in my view, untenable. Accreditation would not have magically increased the quantity of DNA available for analysis. Moreover, Ms Saurogo confirmed that her laboratory does indeed adopt international standards and best practice.
59. It is pertinent to note that Ms Marama did not object to Ms Saurogo as an expert witness. Ms Saurogo has given expert evidence in my Court on a

previous occasion, and I am entirely satisfied that she is qualified to give expert DNA evidence notwithstanding that her laboratory is not accredited.

60. Ms Marama leans heavily on the leave Ruling in *Bale v State* in support of her argument that the DNA evidence was of poor quality, and the Police Forensic Laboratory was not qualified to handle it properly.
61. It is perhaps worth making the point that, for obvious reasons, as a general rule, Rulings at the leave to appeal stage are not cited as authority.
62. Be that as it may, in my considered view, *Bale v State* does not support the weight of Ms Marama's argument.
63. At [22] of his Ruling, the learned President of the Court of Appeal observed that:

“Accreditation of laboratories is critically important in ensuring the competency and reliability of results of investigation it produces. In this regard and especially with regard to DNA evidence for use in prosecution at a criminal trial, the high standards of beyond reasonable doubt will be difficult to meet without and (sic) an independent verification process that is certified by the government.”

64. Whilst I, of course, endorse the laudable objective of formal accreditation for our home laboratory, I do not understand *Bale* to establish the principle that non-accreditation means that trial courts cannot accept the evidence of local expert witnesses as sufficiently reliable to satisfy the criminal standard of proof.
65. Ms Marama's argument that the DNA results in this case cannot be relied upon because the laboratory is not accredited cannot be accepted. To my way of thinking, non-accreditation does not make expert evidence inherently unreliable any more than accreditation would make expert evidence inherently reliable. Accreditation is not a silver bullet.

66. At first instance, it is a matter for the trial court to assess whether a witness is qualified to assist the court as an expert witness, and to weigh the reliability of the expert evidence adduced. In my view, the question whether expert evidence is sufficiently reliable does not turn on whether the expert is accredited, or attached to an accredited laboratory.
67. 30 days to appeal to the Court of Appeal.



A handwritten signature in black ink, consisting of a stylized "W" and "B" followed by a long horizontal line.

Hon. Mr Justice Burney

At Labasa

20 February 2026

Solicitors

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