

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 050 OF 2020

STATE

-v-

AIYAZ ALI

Counsel : Ms S. Swastika for State
: Accused in Person

Date of Judgment : 11 November 2025
Date of Sentence Hearing : 16 February 2026
Date of Sentence : 26 February 2026

SENTENCE

1. Aiyaz Ali (the offender) was originally arraigned on 10 November 2014 with one count of Attempted Murder and two other associated counts. He pleaded guilty to the first count of Attempted Murder and not guilty to the other two counts. On 19 November 2014, he filed an application to vacate his guilty plea. The Learned Judge dismissed the application and proceeded to record a conviction. On 5 March 2015, he was sentenced to life imprisonment with a minimum term of 7 years' imprisonment.
2. On 21 March 2015, Aiyaz Ali filed an appeal in the Court of Appeal against his conviction and the sentence. The Appeal was allowed. The guilty plea was set aside. The matter was sent back to this Court for him to be arraigned afresh.

3. Aiyaz Ali was charged afresh with one count of Attempted Murder contrary to sections 237 and 44 of the Crimes Act of 2009. He pleaded not guilty to the charge. At the trial, the complainant presented evidence-in-chief in the presence of Aiyaz Ali, who was unrepresented. His application for an adjournment to cross-examine the complainant and retain counsel was granted.
4. Aiyaz Ali failed to appear in Court on the date fixed for further trial. A bench warrant was issued. Having been satisfied that Aiyaz Ali was deliberately absconding, the Court proceeded to try him in absentia. He was convicted after trial on 11 November 2025 as charged.
5. The victim was the ex-de facto partner of Aiyaz Ali. They had 2 kids aged 1 year and 8 months and 4 months. She was 2 months pregnant with the third child at the time of the offence.
6. On 18 April 2013, the victim ran away from home at night after being sexually abused by Aiyaz Ali. She ran to the Nawaicoba Police Post, from where she was taken to the Nadi Police Station, where she lodged a report. On the same day, she obtained a DVRO and a Court Order to have her belongings and the children removed from home. She went home with a police officer to move her belongings. While the police officer was sitting in front of the house, Aiyaz Ali followed the victim, locked the door and started chopping her with a cane knife all over her face and head. He also tried to chop her neck. When she tried to stop him, he hit her hands with the cane knife. She suffered serious injuries to her neck, face, head, hands and shoulders. While striking with the cane knife, Aiyaz Ali said, "I will finish you off today". She became unconscious and was admitted to Lautoka Hospital for three weeks while her children were with Social Welfare. She had to undergo surgery and was on physiotherapy for a long time.
7. In sentencing, Section 4 of the Sentencing and Penalties Act 2009 requires the Court to have regard to the maximum penalty prescribed for the offence, the current sentencing practice and the applicable sentencing guidelines issued by the courts.

8. Section 44 of the Crimes Act of 2009 provides that a person who attempts to commit an offence is guilty of the offence of attempting to commit that offence and is punishable as if the offence attempted had been committed. Accordingly, a person who is convicted of Attempted Murder is liable to be punished as if he/she had committed Murder. For Murder, the penalty is mandatory life imprisonment, with a judicial discretion to set a minimum term to be served before a pardon may be considered by the President.
9. There is no settled criterion to select a minimum term for Attempted Murder. The decided cases indicate that the minimum term for Attempted Murder ranges from 8-11 years' imprisonment¹.
10. Apart from the culpability and harm factors, the Court is required to consider aggravating and mitigating factors to determine the minimum term. It is a cardinal principle of just sentencing that the penalty should be fashioned to match the gravity of the offence and to take account of the circumstances in which it was committed².
11. The culpability level is high in this case. The victim did not offer any provocation. The offender used a cane knife. The harm caused to the victim is long lasting. She suffered serious injuries which required surgery and long term physiotherapy. She had indelible scars on her head and face when she took the stand.
12. It is aggravating that the offender committed the offence in the presence of his children and the police officer who had come to execute a court order. It was a high-handed act and a gross violation of the DVRO issued by the Court. The victim is his ex-de factor partner. The offence was committed in a domestic setting in breach of trust.

¹ State v Ledua [2004] HAC 003/04 14 June 2004 -10 years' imprisonment; Waqanivalu v State [2008] FJSC 44: CAV0005.2007 (27 February 2008)-10 years' imprisonment; State v Sharma [2009] FJHC 62; HAC045.2008 (4 March 2009) - 11 years' imprisonment; State -v- Tagiteci [2010] FJHC 383; HAC031.2010 (3 September 2010) -11 years' imprisonment.

² Lord Bingham said when the Crime (Sentences) Bill (now the Crime (Sentences) Act 1997 (UK)) was before the House of Lords for its Second Reading [Quoted in State v Pikeri 2FLR 228 (30 July 2001)]

13. I am of the considered view that a minimum term of 10 years' imprisonment fits the offence and the offender. The time he served and the time he spent in remand should be taken into account in setting the minimum period to be served. According to the State's submission, the offender had been in remand for 10 months before he was first sentenced and 3 months after the first conviction was quashed. He had served 5 years and 7 months in a correction facility. The total time he spent in remand and served in correction facility is 5 years 3 months and 12 days.
14. Aiyaz Ali is still at large. The State has failed to execute the bench warrant issued to arrest him. The State Counsel after necessary checks confirms that Aiyaz Ali is neither remanded nor imprisoned in Fiji.
15. Having considered all the matters discussed above, Aiyaz Ali is sentenced to life imprisonment. He is to serve a minimum term of four (4) years from the date of his arrest before a pardon may be considered by the President.

16. **Summary**

Sentence: Imprisonment for life.

Minimum term to be served before a pardon may be considered by the President: Four (4) years (effective from the date of his arrest).



26 February 2026

At Lautoka

Aruna Aluthge

Judge

Solicitors:

Office of the Director of Public Prosecutions for the State