

**IN THE FIJI COURT OF APPEAL**  
**[On Appeal from the High Court of Fiji]**

**Criminal Appeal No: AAU0139 of 2014**  
**[High Court Case No. HAC35/09Ltk]**

**BETWEEN** : ASESELA ROKODREU *Appellant*

**AND** : THE STATE *Respondent*

**Coram** : Hon. Mr. Justice Daniel Goundar

**Counsel** : Mr. I. Fa for the Appellant  
Mr. S. Babitu & Mr. A. Singh for the State

**Date of Hearing** : 1 August 2016

**Date of Ruling** : 5 August 2016

**RULING**

[1] Following a trial in the High Court at Lautoka, the appellant was convicted on two counts of robbery with violence and one count of unlawful use of motor vehicle. On 27 October 2014, he was sentenced to a total term of 13years 5 month imprisonment with a non-parole period of 12 years. This is a timely application for leave to appeal against conviction and sentence on the following grounds:

**APPEAL AGAINST CONVICTION**

- a. THAT the learned Trial Judge erred in law and in fact in not adequately directing/misdirecting that the Prosecution evidence before the Court proved beyond reasonable doubts that there were serious doubts in the Prosecution case and as such the benefit of doubt ought to have been given to the Appellant.  
[Full particulars will be provided upon receipt of the Full Court Record.]

- b. THAT the learned Trial Judge erred in law and in fact in not adequately directing the Assessors the significance of Prosecution witness conflicting evidence during the trial.  
[Full particulars will be provided upon receipt of the Full Court Record.]
- c. THAT the Learned trial Judge erred in law and in fact in commenting on the evidence raising a new theory on the facts, uncanvassed during the course of the trial whereby the defence has had no opportunity of commenting upon it.  
[Full particulars will be provided upon receipt of the Full Court Record.]
- d. THAT the learned trial Judge erred in law and in fact in not directing himself and of the Assessors to refer any Summing Up the possible defence on evidence and as such by his failure there was a substantial miscarriage of Justice.  
[Full particulars will be provided upon receipt of the Full Court Record.]
- e) THAT the learned trial Judge erred in law and in fact in not adequately/sufficiently/referring/directing/putting the defence case to the Assessors.  
Full particulars will be provided upon receipt of the Full Court Record.
- f) THAT the trial Judge erred in law and in fact in not dealing adequately and/or properly and/or sufficiently on circumstantial evidence and in not identifying what evidence was or could be classified as circumstantial evidence.  
Full particulars will be provided upon receipt of the Full Court Record.
- g) THAT the Learned Trial Judge erred in law and in fact in misdirecting and/or not properly and/or sufficiently himself and the assessors on the standard and burden of proof.
- h) THAT the Learned Trial Judge erred in law and in fact in misdirecting and/or not properly and/or sufficiently himself and the assessors specifically on the prosecution evidence on the charge of Robbery with violence and Unlawful use of Motor vehicle.  
Full particulars will be provided upon receipt of The Full Court Record.

#### APPEAL AGAINST SENTENCE

- i) THAT the Appellant appeal against sentence being manifestly harsh and excessive and wrong in principal in all the circumstances of the case.
- ii) THAT the Learned Trial Judge erred in law and in fact in taking irrelevant matters into consideration when sentencing the Appellant and not taking into relevant consideration.

- [2] At trial, the appellant was unrepresented. The facts of the case were that the appellant forcefully entered the home of the victim with a group of men and robbed the occupants of jewelry, cash and mobile phones. The victim sustained physical injuries in the course of the robbery. After robbing the occupants, the intruders fled in the victim's vehicle. The following day, the appellant was arrested. The police found the stolen jewelry in the appellant's possession. The assessors expressed unanimous opinion that the appellant was guilty of the charges. The trial judge accepted the guilty opinion and convicted the appellant.
- [3] The notice of appeal and the grounds of appeal were filed by the appellant's counsel of choice, Iqbal Khan and Associates. The written submissions on the question of leave were also filed by Iqbal Khan and Associates. At the leave hearing, Mr. Fa appeared on instructions and relied upon the written submissions filed by Iqbal Khan and Associates. Mr. Fa made no oral submissions.
- [4] I have read the appellant's written submissions. In his submission, apart from reciting case law, counsel for the appellant made no submissions on the grounds of appeal. The grounds of appeal are vague and lack details of the alleged errors. The Notice states that full particulars will be provided upon receipt of the full court record. This is not a reasonable excuse for not complying with the rules requiring the grounds of appeal to be drafted with reasonable particulars so that the opposing party can effectively respond to them.
- [5] In the present case, the State was not able to effectively respond to the grounds because they were vague and lack details. It appears that the alleged errors concern directions in the summing up. A copy of the summing up, the judgment and the sentencing remarks were made available to the appellant after the conclusion of the trial. In these circumstances, the appellant cannot be excused for not providing better particulars of the alleged complaints in the summing up. Without reasonable details of the alleged errors, this Court cannot assess whether this appeal is arguable.



**Result**

[6] Leave refused.



A handwritten signature in black ink, appearing to read "Daniel Goundar", with a long horizontal line extending to the right.

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Hon. Mr. Justice Daniel Goundar  
**JUSTICE OF APPEAL**

**Solicitors:**

Iqbal Khan and Associates for Appellant  
Office of the Director of Public Prosecutions for State