

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

**Criminal Case No HAC 76 of 2008**

**STATE**

**v**

**JOJI KACIVAKAWALU**

Counsel: Ms. L.Latu for the State  
Mr. A. Vakaloloma for the accused.

Dates of hearing: 13, 14, 15 April 2015.

Date of Judgment: 17 April 2015

**JUDGMENT**

**JOJI KACIVAKAWALU**, you have been convicted after trial in this Court of the following offences:

**FIRST COUNT**

**ROBBERY WITH VIOLENCE**: contrary to section 293(1)(b) of the Penal Code, Cap 17.

**JOJI KACAVAKAWALI** with others on the 1<sup>st</sup> day of August 2008 at Nailaga Ba in the Western Division,

robbed Hassan Ali of cash \$20,202, two alcatel mobile phones valued at \$258, two 22ct gold chains valued at \$1100, 3 pieces of diamond earrings valued at \$300, one gents gold ring valued at \$150, two gold car rings valued at \$550, two gold bangles valued at \$1500 all to a total value of \$24,060 the property of Hassan Ali and immediately before the time of such robbery did use personal violence to the said Hassan Ali.

### **SECOND COUNT**

**ROBBERY WITH VIOLENCE:** Contrary to section 293(1)(b) of the Penal Code, Cap17

**JOJI KACAVAKAWALU** with others on the 1<sup>st</sup> day of August 2008 at Nailaga Ba in the Western Division, robbed Khatoon of a gold chain valued at \$400, and gold bangles valued at \$400 all to a total of \$800, the property of Khatoon and immediately before the time of such robbery did use personal violence to the said Khatoon

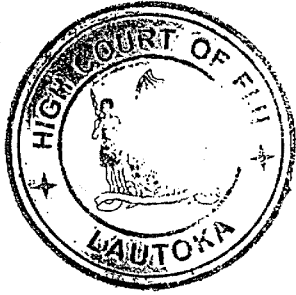
### **THIRD COUNT**

**UNLAWFUL USE OF MOTOR VEHICLE:** contrary to section 292 of the Penal Code Cap 17.

**JOJI KACAVAKAWALU** with others on the 1<sup>st</sup> day of August 2008 at Nailaga Ba in the Western Division unlawfully and without colour of right but not as to be guilty of stealing took for their own use motor vehicle registration number EX213, the property of Hassan Ali.

2. Three assessors have returned a unanimous opinion of guilty on all three charges and on directing myself on my own summing up I agree with the assessors and convict you on all three charges accordingly. That is the judgment of the Court.
3. There can be no dispute that there was a robbery of the Hassan Ali family in the early hours of 1 August 2008. Two or maybe three men were involved and there was violence with sticks and punches perpetrated upon the victims. In additions a knife and a pinch bar were displayed which put the victims in fear.
4. Evidence from other villagers, contemporaries of yours tell of your big spending on alcohol over the following two days, something that you admitted in evidence telling the Court that it was money you had saved from yaqona farming before coming to Ba.
5. The incriminating evidence against you came from your voluntary admissions to the Police in an interview under caution and in your statement in response to the formal charging in which you described your full participation in the robbery.
6. You had told the court that these admissions were a consequence of assaults on you by the Ba Police, but it is clear that neither the assessors nor this Court believed your exaggerated description of assaults which if true would have revealed a quite different medical report than the one disclosed.

7. I find that your answers in the interview are true and were voluntarily given and that coupled with the circumstantial evidence of your behavior after the robbery convinces me beyond reasonable doubt that you are guilty.



**P.K. Madigan**  
**Judge**

At Lautoka

17 April 2015