

IN THE HIGH COURT OF FIJI

AT SUVA

MISCELLANEOUS JURISDICTION

CRIMINAL MISCELLANEOUS CASE NO. HAM 061 OF 2015S

BETWEEN

THE STATE

APPLICANT

AND

RAJEND PRASAD CHARAN

FIRST RESPONDENT

AND

RAKESH PRASAD CHARAN

SECOND RESPONDENT

AND

SHALENDRA SHALVIN EDWARD NARAYAN

THIRD RESPONDENT

Counsels : Mr. T. Qalinauci for Applicant  
Mr. G. O'Driscoll for First Respondent  
Mr. D. Sharma for Second Respondent  
Mr. A. Sokimi for Third Respondent

Hearing : 21 May, 2015

Ruling : 10 July, 2015

Written Reasons : 22 April, 2016

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**WRITTEN REASONS FOR CONSOLIDATING HAC 191/14 AND HAC 196/14**

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1. On 4 July 2014, in Suva High Court Criminal Case No. HAC 191 of 2014S, the first respondent faced the following information:

***Statement of Offence***

**UNLAWFUL IMPORTATION OF ILLICIT DRUGS:** Contrary to Section 4 (1) of the Illicit Drugs Control Act, 2004.

***Particulars of Offence***

**RAJEND PRASAD CHARAN** between the 27<sup>th</sup> day of May, 2014 and 9<sup>th</sup> day of June, 2014 at Suva in the Central Division, imported 105.5 grams of illicit drugs namely; Methamphetamine into the Fiji Islands without lawful authority.

2. On 6<sup>th</sup> March 2015, in Suva High Court Criminal Case No. 196 of 2014S, the second and third respondents faced the following information:

**FIRST COUNT**

***Statement of Offence***

**UNLAWFUL IMPORTATION OF ILLICIT DRUGS:** Contrary to Section 4 (1) of the Illicit Drugs Control Act 2004.

***Particulars of Offence***

**RAKESH PRASAD CHARAN and SHALENDRA SHALVIN EDWARD NARAYAN** between the 27<sup>th</sup> day of May, 2014 and 9<sup>th</sup> of June 2014 at Suva in the Central Division, imported 226.3 grams of Illicit drugs namely, Methamphetamine, without lawful authority into Fiji.

**SECOND COUNT**

***Statement of Offence***

**UNLAWFUL POSSESSION OF ILLICIT DRUGS:** Contrary to Section 5 (a) of the Illicit Drugs Control Act 2004.

***Particulars of Offence***

**RAKESH PRASAD CHARAN** on the 13<sup>th</sup> day of June, 2014 at Nasinu in the Southern Division, without lawful authority was found in possession of an illicit drug namely; Cannabis Sativa weighing at 0.5 grams.

**THIRD COUNT**  
***Statement of Offence***

**UNLAWFUL POSSESSION OF ILLICIT DRUGS:** Contrary to Section 5  
(a) of the Illicit Drugs Control Act, 2004.

***Particulars of Offence***

**RAKESH PRASAD CHARAN** on the 13<sup>th</sup> day of June, 2014 at Nausori in the Eastern Division, without lawful authority was found in possession of an illicit drug namely; Methamphetamine, weighing at 2.36 grams.

3. On 1 May 2015, the State applied for the consolidation of the above informations on the ground:

**“...THAT the allegation in both matters arises from different offences provided that all the offences are part of a series of offences of a similar character and the prosecution would be relying on the same witnesses to prove its case...”**
4. On 20 May 2015, all the respondents filed affidavits in reply opposing the consolidation application. They appear to deny that “the offences are part of a series of offences of a similar character”. They asked for separate trials.
5. On 21 May 2015, I heard the parties. I heard their verbal submissions. On 10 July 2015, I granted the State's application for consolidation of the charges in Suva High Court Criminal Case No. HAC 191/14 and HAC 196/14. I said I would give my written reasons later. Below are my reasons.
6. In applying for consolidating the above informations, the State relied on the authority of Section 60 of the Criminal Procedure Decree 2009, which reads as follows:

**“...60. The following persons may be joined in one charge or information and may be tried together –**

  - (a) persons accused of the same offence committed in the course of the same transaction;
  - (b) persons accused of an offence and persons accused of-
    - (i) aiding or abetting the commission of the offence; or
    - (ii) attempting to commit the offence;
  - (c) persons accused of different offences provided that all offences are founded on the same facts, or are part of a series of offences of the same or a similar character; and
  - (d) persons accused of different offences committed in the course of the same transaction...”

7. I have carefully read and considered the affidavits submitted by the parties. I have also carefully considered their verbal submissions on 21 May 2015. After considering all the evidence and submissions, I am of the view that the offences are part of a series of offences of a similar character and by virtue of the authority of Section 60 (c) of the Criminal Procedure Decree 2009, I allowed the State's application for consolidation of the informations in HAC 191/14 and 196/14. I ruled so accordingly.



A handwritten signature in blue ink, consisting of a large, stylized 'S' shape that loops back to the start.

**Salesi Temo**  
**JUDGE**

**Solicitor for Applicant : Office of the Director of Public Prosecution, Suva.**  
**Solicitor for First Respondent : O'Driscoll and Co., Barrister & Solicitor, Suva.**  
**Solicitor for Second Respondent: R. Patel Lawyers, Barrister & Solicitor, Suva.**  
**Solicitor for Third Respondent : Jamnadas & Associates, Barrister & Solicitor, Suva.**