

IN THE HIGH COURT OF FIJI
CRIMINAL JURISDICTION
AT LAUTOKA

CRIMINAL CASE: HAC 108 OF 2012

BETWEEN : STATE

AND : RAVINESH SINGH

Counsel : Mr. S. Nath for State
Mr. R. Vananalagi for the Accused

Date of Hearing : 24th and 25th of October 2016
Date of Closing Submissions : 26th of October 2016
Date of Summing Up : 28th October of 2016
Date of Judgment : 01st of November 2016

JUDGEMENT

1. The accused is being charged with one count of Aggravate Robbery, contrary to Section 311 (1) (a) of the Crimes Decree. The particulars of the offence are that;

“Ravinesh Singh in company with others on the 23rd day of May 2012 at Nadi in the Western Division, robbed Jasvanti Ben Jamnadas of cash \$ 20,000 and assorted jewelries valued at \$ 30,000, all to the total value of \$ 50,000”
2. The accused pleaded not guilty for the charge. Hence, the matter proceeded to hearing. The hearing commenced on the 24th of October 2016 and concluded on the 25th of October 2016. The prosecution called four witnesses. The accused gave evidence on oath and called two witnesses for his defence. Subsequently, the


learned counsel for the prosecution and the defence made their respective closing submissions, which was followed by my summing up.

3. The assessors returned with split opinion. Two assessors in their opinion found the accused is guilty for the offence. Meanwhile, one assessor found in his opinion that the accused is not guilty. The assessors' opinion was not perverse. It was open for them to reach such conclusion on the evidence presented during the hearing.
4. Having carefully considered the evidence adduced during the course of the hearing, the closing submissions by the counsel, the summing up and the opinion of the assessors, I now proceed to pronounce my judgment as follows.
5. The prosecution alleges that the accused in company with others robbed cash of FJD 20,000 and jewellery valued at FJD 30,000 from Mrs. Jasvanti Ben Jamnadas on the 23rd of May 2012. The accused has provided the transportation for the three masked robbers who entered into the house and robbed therein.
6. The accused denies this allegation and claims that it is a false allegation.
7. The only evidence the prosecution adduced against the accused, incriminating him to this offence, is the admission made by the accused in his caution interview. The court held the caution interview of the accused is admissible in evidence prior to the commencement of the trial of this matter. However, the court is still required to satisfy that the contents in the caution interview is true and credible in order to accept it as reliable evidence.

8. It has been recorded after the question number 9 of the caution interview that the interviewing officer, Cpl Shailend has reasons to believe that the accused was involved in this crime. However, Cpl Shailend in his evidence did not specifically state what were the reasons that made him to believe the accused was involved in this crime.
9. The accused has said in the caution interview that he dropped Stephen, Bobo and Hema at the Richmond Crescent. He did not say in the caution interview that he saw them entering into the house of the victim. After a while he went and picked them at the junction of Lodhia Street.
10. During the reconstruction, the accused has pointed out at a double story house on the left side of the roundabout at the Richmond Crescent, saying that it was the house they rob. He knew the occupant of the said house was an old lady. The accused has further stated in his caution interview that he only gave information to Stephen about the occupant of the house. Cpl Shailend in his evidence did not state that the house the accused pointed out during the reconstruction was the same house that was robbed by three masked men on the 23rd of August 2012.
11. The accused has further stated in his caution interview at question no. 63 that Bobo told him that they found two persons in the house and both of them were tied up by them. Bobo told this to accused when he was picked up by the accused at Lodhia Street. However, Mrs. Jamnadas in her evidence stated that she was alone in the house in that night of 23rd of August 2012, when the three masked robbers broke into her house.

12. In view of the reasons discussed above, it is my opinion that there is a reasonable doubt whether the accused and three men mentioned in the caution interview, have actually robbed the victim's house or another house. Hence, there is a reasonable doubt about the truthfulness of the confession made by the accused in his caution interview. I accordingly find it is not safe to rely on the contents of the caution interview in the absence any other evidence to establish the guilt of the accused. I accordingly find the prosecution has failed to prove beyond reasonable doubt that the accused in company with others robbed the house of Mrs. Jamnadas on the 23rd of August 2012.
13. Accordingly, I find there is a cogent reason for me to disagree with the majority opinion of guilt given by two assessors.
14. In conclusion, I hold that the prosecution has failed to prove the accused is guilty for the offence as charged in the information. Therefore, I find the accused is not guilty for the offence of Aggravated Robbery as charged and acquit him accordingly.
15. Thirty (30) days to appeal to the Fiji Court of Appeal.




R. D. R. Thushara Rajasinghe

Judge

At Lautoka

1st of November 2016

Solicitors : Office of the Director of Public Prosecutions

Messrs R Vananalagi & Associates