

IN THE HIGH COURT OF FIJI

AT LABASA

CRIMINAL JURISDICTION

CRIMINAL CASE NO: HAC 006 OF 2016LAB

STATE

V

JONE SERU

Counsels : Mr. R. Kumar for State
Accused in Person

Hearings : 17, 18, 19 and 20 July, 2017

Summing Up : 21 July, 2017

Judgment : 24 July, 2017

JUDGMENT

1. On 18 July 2017, the following information was put to the accused:

Statement of Office (a)

CULTIVATION OF ILLICIT DRUGS: Contrary to section 5 (a) and Schedule 1 of the Illicit Drugs Control Act of 2004.

Particulars of Offence (b)

JONE SERU between the 1st day of October 2011 and the 8th day of February 2012 at Savusavu in the Northern Division, without lawful authority cultivated 5500 grams or 5.5 kilograms of illicit drugs namely cannabis sativa.

2. He had previously waived his right to counsel and said he would represent himself. The information was read and explained to him. He said he understood the same. He pleaded not guilty to the information. In other words, he disputed the allegation against him.
3. The matter then went to trial before myself and three assessors. The trial went on for four days. I delivered my summing up to the assessors on 21 July 2017 and later they retired to deliberate on the matter. After 25 minutes, they returned with a unanimous opinion. All three assessors were of the opinion that the accused was guilty as charged.
4. As it was Friday afternoon on 21 July 2017, I adjourned to Monday to deliver my judgment. It was obvious that the assessors had accepted the prosecution's version of events. This meant that they had found the prosecution's witnesses's evidence credible, and had accepted their evidence.
5. I have reviewed the evidence called in the trial and I have directed myself in accordance with the summing up I gave the assessors on 21 July 2017. The assessors' verdict was not perverse. It was open to them to reach such conclusion on the evidence.
6. Assessors are there to assist the trial judge come to a decision on whether or not the accused was guilty as charged. On my analysis of the evidence, I accept the three assessors' guilty opinion. Like the assessors, I find all the prosecution's witnesses' evidence credible, and I accept them.
7. I accept PC 4799 Peter Pickering (PW1) evidence that he found the accused hiding behind a huge rain tree log, which was inside his cannabis sativa plant's farm on 8 February 2012. I accept PW1's evidence that he later chased and arrested the accused. I accept PW1 and PC 4272 Inia Cagilevu's (PW2) evidence that they later uprooted 20 cannabis sativa plants from the accused's farm, and the same were later taken to Savusavu Police Station. I accept

Corporal 2753 Lesley Miller's (PW3) evidence that he escorted the accused to Savusavu Police Station on 8 February 2012 from the drug farm.

8. I accept SC 1883 Badal Lal's (PW6) evidence that he took the above cannabis sativa plants to Koronivia Research Station on 9 February 2012 for analysis by the Government Analyst Ms. Miliakere Nawaikula (PW5). I accept PW5's evidence that the plants she analyzed were cannabis sativa and weighted 5.5 kilograms. I accept that the evidence that PW5 gave in court had proved to me beyond reasonable doubt that the copies of the "certificate of analysis" (Prosecution Exhibit No. 2) and "Analysis of Cannabis" (Prosecution Exhibit No. 3) she produced in court is a true and faithful reproduction of the original; the original had been lost and a search had not recovered the same. She was the one who wrote the original in her own handwriting and she appeared to say that her handwriting and signatures had not been tampered with. Consequently, in paragraph 27 of my summing up, I ruled Prosecution Exhibits No. 2 and 3 as admissible evidence.
9. Finally, I accept PC 3553 Madigibuli Baleisuva's (PW4) evidence when he caution interviewed the accused on 8 and 9 February 2012 at Savusavu Police Station. He said, he asked the accused 37 questions and he gave 37 answers. I accept PW4's evidence that he gave the accused all his legal rights and his right to counsel. I accept PW4's evidence that he formally cautioned the accused and gave him the standard rest and meal breaks. I accept PW4's evidence that the accused fully confessed to the crime during the interview. I accept that the accused gave his confessions voluntarily and out of his own free will, and the same were the truth.
10. Given the above, I accept the three assessors' unanimous guilty opinion and I find the accused guilty as charged. I convict him accordingly.



Salesi Temo
JUDGE



Solicitor for the State : **Office of the Director of Public Prosecution, Labasa**
Solicitor for the Accused : **In Person**