

IN THE HIGH COURT OF FIJI

AT LAUTOKA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. : HAC 109 OF 2013

STATE

v

RONALD DULARE SINGH

Counsel : Mr. S. Babitu for State
Mr. J. Singh for Accused

Date of Judgment : 26th April, 2018

Date of Sentence : 04th May, 2018

SENTENCE

1. Mr. RONALD DULARE SINGH, you stand convicted after trial for the following charge and now come before this Court for sentence.

Statement of Offence

MANSLAUGHTER: Contrary to Section 239 of the Crimes Decree No. 44 of 2009.

Particulars of Offence

RONALD DULARE SINGH on the 11th of May, 2013 at Korolevu, Sigatoka in the Western Division, unlawfully killed **Manasa Nawakula**.

2. Brief facts of the case are that:

On 11th May, 2013, when you working as a plumber at Warwick Hotel, you, after work, came drunk to the entrance of the hotel and was waiting at the bus stop for the staff bus to arrive. Whilst waiting at the bus stop, you saw one of your lady staff being bothered by the victim who was also drunk. You punched the victim on his chin causing serious harm when he was lying down on the flower bed beside the sign board of the hotel. When the security guards of the hotel approached, you challenged them for a fight and asked them to leave the injured victim where he was. The victim was pronounced dead upon admission to the hospital. The pathologist who conducted the post-mortem on the deceased found a severe haemorrhage in deceased's brain and opined that the death was caused by the extensive haemorrhage in the brain caused by a blunt force trauma.

3. The maximum penalty for Manslaughter is 25 years' imprisonment. Under the Penal Code, the maximum penalty was life imprisonment. As observed by the Court of Appeal in *Vilimoni Navamocea v The State* Criminal Appeal No. AAU0002 of 2006 at paragraph [17]: Manslaughter is still considered a serious offence because it results in a loss of human life. The Court observed:

"There can be no more serious offence than one which needlessly takes away the life of an innocent person. In other crimes the court will have seen and heard the victim and been able to assess the horror of what he or she has experienced. In manslaughter cases that is, of necessity, impossible. Yet utter devastation to the deceased's family will be inevitable. How can an offence which results in taking an innocent life be sentenced less severely than an offence of violence which does not?"

4. Despite the above mentioned change in the legislation as to the maximum sentence, the tariff is still the same. Sentences for Manslaughter range from a suspended sentence to 12 years' imprisonment. Sentences in the upper range are reserved for cases where the degree of violence is high and the provocation

minimal. Sentences in the lower range are reserved for cases where the degree of violence was minimal, while the provocation is extreme. In Kim Nam Bae v State Cr App No. AAU0015 of 1998S it was said:

"The task of sentencing is not an exact science which is capable of mathematical calculation. This is particularly so with manslaughter where the circumstances and the offender's culpability can vary greatly from case to case. An appropriate sentence in any case is fixed by having regard to a variety of competing considerations".

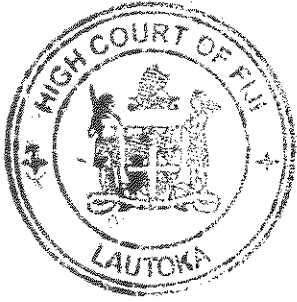
5. The dominant factor in assessing the culpability of your offending is the degree of violence used to cause the death. The harm caused to the deceased was also considered and assessed on the basis of medical evidence led in trial.
6. Punching the deceased on his submental area (below the chin), resulting in his death is considered serious and should attract an immediate custodial sentence. You punched the deceased when he was lying down at the edge of a flower bed. You did not take any action to take the deceased to the hospital when he was lying unconscious with serious injuries. You also asked the security guards to leave the deceased behind.
7. You have not used any weapon in this onslaught. But you punched a vulnerable part of deceased's body, causing haemorrhage in his brain. Degree of violence is somewhat considerable.
8. It appears that the provocation offered by the deceased was minimal. There is no strong evidence to suggest that the deceased was physically harassing the lady you referred to as "Nene". The deceased was drunk and carrying a bag of groceries. By a reasonable person's standard, your reaction to the provocation, if any, has been highly disproportionate.
9. Having considered the culpability of the offence and the loss of human life, I pick two years as the starting point.
10. It is aggravating that you committed this offence under influence of alcohol.
11. After assaulting the deceased you left him at the scene when he was lying unconscious with bleeding injuries. You asked the security guards to leave the

deceased where he was lying and bragged about the assault and also wanted to fight the security guards.

12. I have considered the mitigation submission filed by your Counsel. You are 25 years of age and single. You are now unemployed and reside in the village with your two sisters.
13. You are a young and first offender. The only compelling mitigating factors are found in your clean record and comparative youth. On those grounds, I am minded to give some weight to the principle of rehabilitation in sentencing.
14. Your Counsel seeks mercy on account of your remorseful attitude. However you have not shown a genuine remorse in this case.
15. You have cooperated with police during investigations and you seek mercy of this Court.
16. To the starting point of 2 years, I add 2 years for aggravating factors. I reduce 11 months for mitigating factors. You have spent nearly a month in remand. I further deduct one month to reflect the remand period.
17. You are sentenced to three years' imprisonment.
18. A suspended sentence is warranted only in cases where the offender had used minimum violence causing the deceased to die and where there is extreme provocation. There is evidence that you have punched the deceased several times when he was lying down. You have not allowed taking the deceased to hospital.
19. In the particular circumstances, I do not see any reason why you should not be given a custodial sentence.
20. Having considered your age and rehabilitation potential, I fix a non-parole period at two years. You are eligible for parole after serving two years in prison.

Summary

21. **You are sentenced to three years' imprisonment. You are eligible for parole after serving two years in prison.**
22. You may appeal this sentence to the Court of Appeal within 30 days.



Aruna Aluthge

Judge

AT LAUTOKA

04th May, 2018

**Solicitor: Office of the Director of Public Prosecution for State
Samusamuvodre Sharma Law for the Accused**