

IN THE HIGH COURT OF FIJI
AT LAUTOKA
[CRIMINAL JURISDICTION]

High Court Criminal Case No. HAC 100 of 2016

BETWEEN : STATE

AND : NAZEEM SHEERAZ ALI

Counsel : Mr Tuenuku for the State
Mr Singh for the Accused

Date of Plea : 29 August 2019

Date of Sentence Hearing : 03 October 2019

Date of Sentence : 16 October 2019

SENTENCE

1. Nazeem Sheeraz Ali, you pleaded guilty to one count of murder contrary to section 237 of the Crimes Act, 2009. The particulars of offence read as follows;

“Nazeem Sheeraz Ali on the 7th day of May 2016, at Yalalevu Ba, in the Western Division, murdered Susana Vakaloloma.”

2. You were indicted on 07 May 2016 and you initially pleaded not guilty to murder. On the day of the trial you informed the Court through your counsel that you wish to take a progressive approach. Accordingly, the trial was suspended, and the case was stood down for your counsel to properly advise you and to get instructions regarding the change of plea. Later the Information was read out and explained again to you and you pleaded guilty to the offence of murder, as charged.
3. On 17 September 2019 the summary of facts was read out and explained to you. According to the summary of facts you were in a de facto relationship with the deceased. On 07 May 2016 you were drinking wine with the deceased. After drinking about 7 bottles of wine, an argument arose with the deceased as she asked for more liquor. In the process you took a cane knife and struck the deceased on her neck. The deceased collapsed on a mattress and you kept on striking the deceased several times on her neck, arms and legs. Thereafter you took the body of the deceased to the kitchen and severed the arms and the legs from the body with the cane knife. You packed the arms and the legs of the deceased in a garbage bag and packed the remaining body parts of the deceased in a drawer. On 8 May 2016 you rang one Ratu Samu Raganitoga and confessed to him that you killed the deceased. You requested him to assist you in burying the body. You took him home and showed him the body parts. You told him that you wiped off the blood that was in the sitting room. You asked him to assist you to load the body in the car. He refused to assist and asked you to drop him off at Ba Town. On 10 May 2016 he reported the matter to the Police. Later you were arrested, and you admitted under caution that you killed the deceased. As per the Postmortem report the death is caused by Exsanguination and multiple traumatic slashed injuries.
4. You admitted the summary of facts. Having been satisfied that the summary of facts proves the offence of murder and of your unequivocal plea, you were convicted of murder.

5. You were in a position of trust as the de facto partner of the deceased. You were supposed to provide protection and care for her. Instead you breached the trust by brutally murdering your partner. The deceased had a daughter and due to your actions, she will now grow up without a mother. You horrifically dismembered the limbs of the deceased after killing her. Your subsequent conduct clearly suggest attempt to conceal the crime. You packed the body parts in a garbage bag and in a drawer. You wiped off the blood. You sought assistance from another person to bury the body parts. I consider those as aggravating factors.
6. Your counsel filed submissions on mitigation;
 - a. You are 34 years old and married.
 - b. You have an eight-year-old son.
 - c. You were employed as a fire extinguisher and you were the sole breadwinner of the family.
 - d. You are a first offender.
 - e. You have expressed remorse by pleading guilty.
7. The punishment for murder is mandatory life imprisonment. However, the Court has the discretion to set a minimum term before pardon may be considered.
8. According to the judgement in *Balekivuya v State* [2016] FJCA 16; AAU0081.2011 (26 February 2016) when a person is sentenced for murder the trial judge is required to exercise the discretion to set a minimum term in two steps. firstly, the court should consider whether a minimum term should be set. Secondly, it must consider the length of the term.
9. You committed this offence in domestic context and it should be noted that the domestic violence nature of this offence makes the offending more serious. The circumstances of this case and particularly, what you did to conceal the crime, are unspeakably horrendous. I am of the view that the circumstances of this

case demand a minimum term to be set to signify deterrence and denunciation of these types of crimes.

10. In State v Motonivalu [2017] FJHC 950; HAC013.2017 (19 December 2017) Justice Rajasinghe observed that;

“In order to set a minimum term to be served for the offence of murder, the court is required to consider the aggravating and mitigating circumstances of the crime. Murders which are brutally carried out without any form of remorse or respect to human life must be given longer minimum period.”

11. Having considered the aggravating factors, your personal circumstances, mitigating factors and your previous good behavior I decide to set a minimum term of 19 years in this case.

12. Accordingly, I sentence you to mandatory life imprisonment with a minimum term of 19 years to be served before pardon may be considered.

30 days to appeal to the Court of Appeal.



At Lautoka
16 October 2019

Rangajeeva Wimalasena
Acting Judge

Solicitors

Solicitors for the State : Office of the Director of Public Prosecutions
Solicitors for the Accused : Samusamuvodre Sharma Lawyers