

IN THE HIGH COURT OF FIJI
AT LABASA
CRIMINAL JURISDICTION

CRIMINAL CASE NO.: HAC 21 of 2018

BETWEEN: STATE

PROSECUTION

AND: TEVITA VUNIWAI

ACCUSED PERSON

Counsel: Ms. D. Rao for State
Ms. K. Boseiwaqa with Ms. M. Besetimoala for Accused

Date of Hearing: 25 November 2019

Date of Sentence: 27 November 2019

SENTENCE

1. Mr. Tevita Vuniwai, you are being charged with one count of Murder, contrary to Section 237 of the Crimes Act, which carries a mandatory sentence of imprisonment of life, with a judicial discretion to set a minimum term to be served before pardon may be considered. The particulars of the offence are that;

Statement of Offence

MURDER: Contrary to Sections 237 of the Crimes Act 2009.

Particulars of Offence

TEVITA VUNIWAI on the 7th day of March 2018 at Labasa in the Northern Division, murdered **AMELIA BALETAGICI TUIMA**.

2. Initially you pleaded not guilty of this offence. However, you indicated that you were ready to plead guilty to a lesser offence of Manslaughter. In consequent of your plea of not guilty, the matter then proceeded to the hearing. The hearing was scheduled to commence on the 25th of November 2019. On the day of the hearing you changed your position and pleaded guilty to the offence. Satisfied by the fact that you have fully comprehended the legal effect of your plea and your plea was voluntary and free from influence, I now convict you to this offence of Murder.
3. According to the summery of facts, which you admitted in open court, you and deceased were married with one son, who is now four years old. During the month of February in 2018, the deceased had complained about domestic violence caused to her by you. She had then moved to another place and obtained a Domestic Violence Restraining order against you on the 21st of February 2019. You were aware of the said order as the deceased informed you about it on the 6th of March 2018. On the 7th of March 2018, you came in a taxi and picked the deceased from a bus stop. You then took her to a location close to Coca Cola warehouse in Naseakula, Labasa. You then had a conversation with the deceased for a while. When she wanted to leave to attend her classes, you took a pocket knife which you were carrying with you and struck the deceased on her abdomen, causing a gapping laceration on her abdomen measuring 20 mm x 10 mm x 120 mm. You have further struck her on the right side of her neck with the said pocket knife causing a deep incise slash wound measuring 70 mm x 30 mm over the right aspect of her neck, which had caused a transection of the muscles, trachea and blood vessels. She was admitted to the hospital, but 30 minutes after her admission, she succumbed to death due to those injuries.
4. The punishment for the offence of Murder is a mandatory sentence of imprisonment of life. However, the sentencing court has been given a judicial discretion to set a minimum term to be served before pardon may be considered. In order to set a minimum term to be served for the offence of Murder, the court is required to consider the level of culpability, level of harm, aggravating factors 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.

5. According to the summary of facts, the deceased had come with you to discuss the issues she had with you irrespective of the domestic violence caused by you. You then struck her on her abdomen and on the right side of the neck with a pocket knife, causing severe injuries to her. She was alone and not in a position to escape or seek for help. In view of the fact that you had carried this pocket knife with you when you took the deceased to this location, it appears that this was a pre-planned attack. Accordingly, I find the level of harm and culpability in this matter are substantially high.
6. By killing your wife who was the mother of your own child, you have breached the trust that she had in you as her husband. Just because she was your wife, she was not required to surrender her personal autonomy to you. If she found your abusive behavior is unbearable, she had a right to move away from you and make her own life as she wanted. Therefore, you were not in a position to control every aspects of her life and punish her for her decision to leave you. I find these reasons as aggravating factors.
7. You are a 22 years old young first offender at that time. You pleaded guilty to this offence on the eve of the hearing. You have saved the time of the court from having a hearing. However, your late plea does not fully demonstrate your genuine remorse in committing this crime. However, I take into consideration that your willingness to plead guilty to a lesser offence of manslaughter as an indication of your willingness to accept the responsibility of this crime to a certain degree. I consider your young age, previous good character and plea of guilty in your favour.
8. Having taken into consideration the level of culpability and harm, the aggravating factors and mitigation factors, I fix a period of eighteen (18) years of imprisonment as the minimum term to be served before pardon may be considered.

9. Accordingly, Mr. Tevita Vuniwai, I sentence you to a period of imprisonment of life to the offence of Murder, contrary to Sections 237 of the Crimes Act with a minimum term of eighteen (18) years before being considered for any pardon.

10. Thirty (30) days to appeal to the Fiji Court of Appeal.



A handwritten signature in blue ink, appearing to read "R.D.R.T. Rajasinghe".

R.D.R.T. Rajasinghe
Judge

At Labasa

27 November 2019

Solicitors

Office of the Director of Public Prosecutions for the State
Office of the Legal Aid Commission for the Accused