

**IN THE HIGH COURT OF FIJI**  
**AT LABASA**  
**CRIMINAL JURISDICTION**

**Criminal Case No. HAC 046 of 2018**

**STATE**

**V**

**JOSESE BALE**

**Counsel:** Mrs. A. Vavadakua for the State  
Miss K. Boseiwaqa (L.A.C.) for the Accused

**Date of Hearing :** 16 April 2019

**Date of Sentence:** 18 April 2019

**SENTENCE**

1. The accused has entered a plea of guilty in this Court to the following count:

***Statement of Offence***

**MURDER:** Contrary to section 237 of the Crimes Act 2009.

***Particulars of Offence***

**JOSESE BALE** on the 10<sup>th</sup> day of June 2018 at Dreketi Village, in Taveuni in the Northern Division murder **ADI EMA MARAMANIKAI SA WAIEKE GOLEA.**

2. A relevant set of facts was read to the accused and on agreement to those facts he was convicted of the charge.
3. The facts are that the accused and his wife (the deceased) lived in the deceased's village in Somosomo, Taveuni with three children of the marriage (Aged 15, 12 and 11.) Another child aged 17 was away at a boarding school.
4. On the 10<sup>th</sup> June 2018, the mother and her three children had gone to a celebratory lunch at a neighbour's house. The father (accused) stayed home drinking alcohol which he had been doing since the evening before.
5. After the lunch the mother (deceased) returned home and a heated argument broke out between her and the accused.
6. When the 11 year old son returned home at 2pm he heard the argument still going and saw his father fetch his pig hunting knife. Being alarmed, the boy ran to the neighbour to get his 12 year old brother and the two boys ran back home to see their father with the knife in his hands standing over their mother. The room was covered in blood.
7. The boys screamed and begged their father to stop. The accused chased the boys out of the house.
8. The accused had earlier broken down the door of their bedroom in which the deceased had locked herself. He then used the knife to stab her body 16 times. He slashed her face near the eye and stabbed her chest rupturing her lungs. He stabbed her stomach and heels. It was after this frenzied attack that the boys saw their mother motionless lying in a pool of blood.

9. The accused then called out to neighbours asking them to call the Police. He approached a good friend of his wife telling her he had just killed his wife and asking her to look after the children because he was not sure how long he would be away for.
10. The villagers rushed the deceased to the local hospital but her situation was hopeless. She was pronounced dead by a medical officer at 1603h on that day (10 June '18).
11. A post mortem examination report concluded that the cause of death was excessive loss of blood caused by multiple stab and slash wounds.
12. The accused is 39 years old and had been a farmer earning less than \$100 per week. The family had no other income.
13. In mitigation, his Counsel stresses his remorse and his plea of guilty. He is said to have acted in provocation of rumours of an affair his wife was having.
14. He has one previous conviction for assault in 2010.
15. The mandatory penalty for murder is life imprisonment and is indeed the sentence that I pass.
16. Section 237 of the Crimes Act however does give the Court the power to set a minimum term to be served before the convict can apply for pardon.
17. In assessing the minimum term, the Court does not follow the usual sentencing procedures by allowing for time spent in remand. (See the dicta of Calanchini P. in ***Priya Darshani*** (AAU0064of 2014). It is not for this court to usurp the function

of the Mercy Commission if and when it is assessing a prisoner's application for pardon.

18. This Court is not convinced by the plea of great remorse. When the horrific facts were read to the accused it was remarkable that the accused remained stoic and stony Faced.
19. Of value to the accused is his early (but not earliest) plea of guilty which plea saved his boys from what would have been a devastating experience to relive the trauma by giving evidence.
20. It is the fate of the children that has exercised the mind of this sentencing court more than anything else. They have each dictated victim impact reports to a social worker and they make poignant and pathetic reading. The children obviously loved their mother very much; each refers to her loving guidance both morally and educationally and each says that he/she cannot stop thinking about her.
21. The accused's first thoughts after the murderous act was of his children and their welfare when he sought shelter for them in the village, but this thoughtful act is far outweighed by the loss of both parents to those children; a loss that has been suddenly precipitated by this crime. Nevertheless there has to be some hope extended to the accused that he may one day see his children marry and produce children of their own.
22. The Court imposes a minimum term of 16 years to be served before he is eligible to make application for parole. The minimum would have been more were it not for the guilty plea and the consequent tragedy of his deprivation of his children's' teenage years and their deprivation of his loving care.

**Orders:**

1. The accused is sentenced to life imprisonment
2. He is to serve a minimum term of 16 years.



A handwritten signature in blue ink, appearing to read "P.K. Madigan".

**P.K. Madigan**

**Judge**

At Labasa

18 April 2019