

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**CRIMINAL JURISDICTION**  
**CRIMINAL CASE NO. HAC 362 OF 2017S**

**STATE**

**Vs**

- 1. ARVIND CHAND**
- 2. JONETANI ROKOTUINASAU**
- 3. LIVAI DRIGITA**

**Counsels** : **Ms. S. Serukai for State**  
**Mr. A.K. Singh for Accused No. 1.**  
**Accused No. 2 in Person, but tried in absentia.**  
**Ms. N. Mishra for Accused No. 3**

**Hearings** : **17, 18, 19, 20, 24, 25 and 26 June, 2019.**

**Summing Up** : **28 June, 2019.**

**Judgment** : **1 July 2019.**

---

**JUDGMENT**

---

1. The accuseds were charged with the following information:

*"First Count*  
*Statement of Offence*

**AGGRAVATED ROBBERY: Contrary to section 311 (1) (b) of the Crimes Act of 2009**

**Particulars of Offence**

**ARVIND CHAND, JONETANI ROKOTUINASAU AND LIVAI DRIGITA on the 15<sup>th</sup> day of November, 2017, at Bau Road, Nausori in the Central Division, robbed SURUJ PRASAD of 1 x Nokia mobile phone valued at \$60.00 and cash of \$110.00 all to the total value of \$170.00 the properties of SURUJ PRASAD, and at the same time of such robbery had a pinch bar with them.**

**Second Count**

**Statement of Offence**

**AGGRAVATED ROBBERY: Contrary to section 311 (1) (a) of the Crimes Act of 2009**

**Particulars of Offence**

**ARVIND CHAND, JONETANI ROKOTUINASAU AND LIVAI DRIGITA on the 15<sup>th</sup> day of November, 2017, at Bau Road, Nausori in the Central Division, robbed UMA KUMARI MISHRA of 1 x silver and gold ring valued at \$1,600.00, 1 x 22 carat gold chain valued at \$2,000.00, 2 x gold wrist watch valued at \$1,000.00, 2 x Alcatel mobile phone valued at \$210.00, 2 x Dell tablet valued at \$1,000.00, 2 x wrist watches valued at \$1,600.00 and assorted imitation jewelries valued at \$50.00, all to the total value of \$7,460.00 the properties of UMA KUMARI MISHRA, and at the time of such a robbery, did use personal violence on the said UMA KUMARI MISHRA.**

**Third Count**

**Statement of Offence**

**AGGRAVATED BURGLARY: Contrary to section 313 (1) (a) of the Crimes Act of 2009**

**Particulars of Offence**

**ARVIND CHAND, JONETANI ROKOTUINASAU AND LIVAI DRIGITA on the 15<sup>th</sup> day of November, 2017, at Bau Road, Nausori in the Central Division, entered into the house of ROHINI NANDAN as a trespasser with intent to steal.**

**Fourth Count**

**Statement of Offence**

**THEFT: Contrary to section 291 (1) of the Crimes Act of 2009**

**Particulars of Offence**

**ARVIND CHAND, JONETANI ROKOTUINASAU AND LIVAI DRIGITA on the 15<sup>th</sup> day of November, 2017, at Bau Road, Nausori in the Central Division, stole 5 x pairs of canvas valued at \$700.00, the property of ROHINI NANDAN".**

2. On 20 June 2019, the information was put to Accused No. 1 and 3, in the presence of their counsels. They pleaded not guilty to the counts. Accused No. 2 was tried in absentia, and

he was deemed to have understood the charges, and deemed to have pleaded not guilty to all the charges. On 20 April 2018, Accused No. 2 chose to represent himself.

3. The case proceeded to trial for five days before me and three assessors. I delivered my Summing Up to the assessors last Friday, 28 June 2019. After deliberating for 1 hour 14 minutes, the assessors returned with a unanimous opinion finding all accuseds guilty as charged on all counts.
4. Obviously, the three assessors had accepted the prosecution's version of events. That meant they had also found the evidence of the prosecution's witnesses as credible. This also meant they had rejected Accused No. 1's denials, and rejected his version that he was only driving Accused No. 2 and 3 and others, at the material time, for hire.
5. I had reviewed the evidence called in the trial and I had directed myself in accordance with the Summing Up I gave the assessors on 28 June 2019.
6. The assessors' opinion was not perverse. It was open to them to reach such opinion on the evidence.
7. Assessors are there to assist the trial judge come to a decision on whether or not the accuseds were guilty as charged. They represent the public's view on the case, and their opinions must be treated with respect.
8. The prosecution did not provide any eye witness or witnesses to link all the accuseds to the crimes alleged in the information. The evidence of all the complainants, that is, Mr. Suruj Prasad (PW1), Ms. Uma Kumari Mishra (PW2) and Ms. Rohini Nandan (PW3), were not disputed by the defence. I accept the evidence of all the complainants. I accept that PW1 was violently robbed of his properties, as itemized in count no. 1.

9. I accept PW2 was violently robbed of her properties, as itemized in count no. 2. I accept that PW3's house (i.e. storeroom) was burgled by others, as alleged in count no. 3, and her properties stolen, as alleged in count no. 4.
10. All the complainants saw the thieves come to their house, but could not identify them, as it was dark and early morning of 15 November 2017.
11. However, what connected the three accuseds to the crimes alleged in count no. 1, 2, 3 and 4 was the presence of PW1, PW2 and PW3's stolen properties in the car they were travelling in, when found by police, at about 4.30 am on 15 November 2017. The crime against PW1 was committed between 1.30 am to 2.15 am on 15 November 2017. The crimes against PW3 was committed between 3 am to 3.30 am. The crime against PW2 was committed between 3.45 am and 4 am. At about 4.25 am on 15 November 2017, Sgt 2870 Adrian Choy (pw4) saw Accused No. 1's car, registration number JB 405 on Bau Road, about 10 meters from PW2's house.
12. PW4 later stopped Accused No. 1's car, JB 405, and arrested Accused No. 1. PW4 said, three i-taukei boys fled from the car, when he arrested Accused No. 1. In Accused No. 1's Agreed Facts, dated 7 June 2019, in paragraphs 10, 11, 12 and 13, Accused No. 1 identified Accused No. 2 and 3, as the persons who fled from his car, at the time PW4 arrested him.
13. PW4 said, when he checked Accused no. 1's car, he found stolen properties in the same. In Accused No. 1's 7 June 2019 Agreed Facts, he admitted in paragraphs 14, 15 and 17 that the stolen properties belonged to PW1, PW2 and PW3. I accept Accused No. 1's 7 June 2019 Agreed Facts with the State. I direct myself in accordance with what I said in paragraphs 33 to 46 of my summing up.
14. I have looked at all the evidence. I have heard Accused No. 1's evidence. In my view, the fact that the police found PW1, PW2 and PW3's stolen properties in Accused No. 1's car,

wherein Accused No. 1, 2 and 3 were present, so soon after the crimes against PW1, PW2 and PW3, was strong circumstantial evidence against them. Furthermore, Accused No. 2 admitted in his caution interview (Prosecution Exhibit 8 (c)) that he attacked PW1 in his own house when he threw a coffee table at him, at the material time. I find his admission credible and they were the truth and I accept it. In my view, all accuseds acted as a group in offending against PW1, PW2 and PW3, at the material time. In my view, Accused No. 2 and 3 did the break-in to PW1, PW2 and PW3's house and stole the properties therefrom. In my view, Accused No. 1 provided the transport to transport the stolen goods and the accuseds and also as a getaway vehicle, for a share of the loot. He said, he was looking for money. In my view, all accuseds knew what they were doing and colluded in the crimes against PW1, PW2 and PW3. The strong circumstantial evidence, outlined in my summing up, suggested the above.

15. Given the above, I agree with the unanimous opinions of the assessors, and I find all accuseds guilty as charged and I convict them accordingly, on all counts.



  
**Salesi Temo**  
**JUDGE**

**Solicitor for the State** : **Office of the Director of Public Prosecution, Nausori.**  
**Solicitor for the Accused No. 1:** **A.K. Singh, Lawyers & Notary Public, Nausori.**  
**Solicitor for the Accused No. 2:** **In Person, but tried in absentia.**  
**Solicitor for the Accused No. 3:** **Legal Aid Commission, Nausori.**