

**IN THE HIGH COURT OF FIJI AT SUVA**  
**[CRIMINAL JURISDICTION]**

**CASE NO: HAC. 364 of 2018**

**BETWEEN** : **STATE**

**AND** : **SAKEASI RADRAVU**

***Counsel*** : ***Mr. Kumar R. and Mr. Sharma N. for State***  
: ***Mr. Prasad K. for the accused***

***Hearing on*** : ***02<sup>nd</sup> July – 03<sup>rd</sup> July 2019***

***Summing up on*** : ***04<sup>th</sup> July 2019***

***Judgment*** : ***10<sup>th</sup> July 2019***

## **JUDGEMENT**

[1] The accused, Mr. Sakeasi Radravu was charged as follows;

*Statement of Offence*

ROBBERY: contrary to section 310(1) (a) (i) of the Crimes Act 2009.

*Particulars of Offence*

Sakeasi Radravu on the 18<sup>th</sup> day of August 2018 at Nasinu in the Central Division, robbed James Mani of \$56.00 cash, the property of the said James Mani.

[2] He pleaded not guilty to the charge and the ensuing trial lasted for 2 days. The complainant Mr. James Mani and Inspector Isireli Ravulolo, who was attached to the Valelevu Police Station, gave evidence for the prosecution while the accused Mr. Sakeasi Radravu and his father Mr. Ilaitia Radravu gave evidence for the defense.

[3] At the conclusion of the evidence and after the directions given in the summing up, the assessors unanimously found the accused guilty to the count of Robbery.

[4] I direct myself in accordance with the law and the evidence inclusive of which I discussed in my summing up to the assessors.

### **Summary of the evidence**

[5] The first witness called on behalf of the prosecution was Mr. James Mani. His evidence was that;

(a) He is the owner and the driver of taxi No. LT4252.

(b) On the 18<sup>th</sup> of August 2018 at about 5.30pm he was robbed of \$56.00 by a passenger.

(c) On that day he was driving his taxi from Lami. A boy and a girl has got into it from Lami and wanted to go to Kinoya.

(d) As he reached the AOG School in Kinoya, they told him to stop for the female passenger to get down. Once the female passenger got down he was asked by the male passenger to take him to Vesivesi Road as he lives there. When at Vesivesi Road he was asked to turn to the right and later to the left to Kokila Drive. At the roundabout, he was asked to stop the car and the said passenger has got down and come around and asked of the fare. When informed that it was \$12.60, the witness was punched on the side of the face and opening his door, was dragged out on to the tar sealed road. The person, who punched, has got into the car and it was moving slowly as it was in a running gear. The witness has got up and gone behind and hanged on to the T-Shirt of the assaulter and pulled him out. Then both of them have fallen down on to the road and assaulter has got on top of the witness and while pressing him down has taken his money from the shirt pocket. They have fought thereafter for a while and the assaulter has tried to run away. The witness has held on to the assaulter's T-Shirt and it has torn. Then two persons have come and the assaulter has run away. Those persons have called the police and the police came and assisted him.

(e) The witness affirms that he has been fighting with the assaulter for about 5-6 minutes, face to face, and the at a very close proximity under day light, around

5.30 pm. The witness further states that while he was fighting with the assaulter, his car went into the drain and got damaged.

- (f) The witness states that while driving them from Lami, which was about a 45 minute drive, he has looked at them for about 6-7 times. Further the witness states that it was the day of the Hibiscus Festival, it was a bright day, and it had sufficient day light at the time of the incidence.
- (g) Further, having dropped the female passenger while driving with the male passenger for about 10 minutes, he has been talking to him and looked at him 2-3 times in the rear view mirror.
- (h) When the assaulter pulled him out and he fell on to the road, he fell sideways and saw his vehicle moving. At that time the assaulter kicked him and he tried to block the kicks.
- (i) Describing the assaulter the witness states that it was an I-Taukei man of about 6 feet tall, and of medium complexion. He further states that the assaulter was wearing a black round neck T-Shirt and  $\frac{3}{4}$  pants, in addition to a pom-pom, while he was in the taxi and when he got down at the place of the incident, he has put his pom-pom in his pocket.
- (j) The witness has reported the matter to the police on the same day at the Valelevu Police Station. Thereafter as informed he has gone to the Valelevu Police Station on 22<sup>nd</sup> of September 2018 and was shown 8-9 photographs. The witness has identified the person who robbed him from those photographs. The shown 9 photographs at the police station were marked and produced as PE3(a-i).
- (k) The witness identifies PE3 (b) as the photo from which he identified the accused at the Valelevu Police Station. The witness states he identified the accused from his tattoos visible there in the photo, in addition to having had a face to face fight with him and travelling together with him for more than 45 minutes. The witness identifies the accused as the person who robbed him.

[6] In answering the cross-examination, the witness states;

- (a) The witness admits making a statement to the police while the incident was fresh in his mind.
- (b) When asked whether he told police of the female passenger getting down near the AOG School, the witness answers that it was the accused who told him that she is going to her in-law's place. In answering to the question whether he informed of his taxi fare in the statement, the witness states that though he informed of it, the police have not taken it down.

- (c) In a similar manner the defense highlights few omissions' in his statement to the police which the witness admits. However defense fails to elicit a single contradiction in the said statement with his evidence.
- (d) The witness has seen the tattoos on the accused at the time his t-shirt was torn. The witness admits that out of the 9 photos shown to him at Valelevu Police Station, only photo with visible tattoos is of the accused's'.
- (e) The witness states that he was shown a photo of the accused in a mobile phone of a police officer on 18<sup>th</sup> of August 2018, from which he identified the accused initially.
- (f) When examined whether he managed to identify the accused through photo PE3 (b) since he was shown a photo of the accused previously, the witness states that he saw the accused with his own eyes at the incident.
- (g) When queried of what he has informed to the doctor at the medical examination, and suggested that he informed that 3 persons have assaulted him, as for D (10) of the PE1, the witness denies it and states that he told the doctor that only one person robbed him.
- (h) The witness affirms that the accused was the one who assaulted him and robbed him of the money on the 18th of August 2018.

[7] The next witness called by the prosecution is Inspector Isireli Ravulolo. His evidence is that;

- (a) He is an Inspector of Police attached to the Fiji Police Force, and was on duty at the Valelevu Police Station on 22 September 2018.
- (b) He has held a photo identification on 22 September 2018 at the Valelevu Police Station. He has conducted it and the complainant, Mr. James Mani has participated for the identification.
- (c) In cross examination the witness states that he and the complainant only were there and no one else.
- (d) Showing 5 photos with imprinted 2017 dates on them, the defense suggests since the incident happened in 2018, including them would assist the complainant to isolate the accused. The witness denies such.
- (e) In answering a question by the Court, the witness states the criteria used in selection of the photos was the description by the complainant and accordingly, ethnicity, hair and beard was used in selecting the photos.
- (f) The witness concedes that only photo with the visible tattoos is of the accused's. The witness denies of any knowledge of the presence of accused at Valelevu Police Station on the 22 September 2018.

- (g) The defense suggests that due to the presence of the accused at Valelevu police station on 22 September 2018, he was falsely implicated and the witness denies.
- [8] With leading of the above witnesses and marking and producing the exhibits PE1 to PE3 (a-i), the prosecution has closed their case. The Court being satisfied that the prosecution has apparently (prima-facie) adduced sufficient evidence covering the elements of the offence, acting under the virtue of Section 231 (2) of the Criminal Procedure Act, has called for the defense.
- [9] At the end of the prosecution case I explained his rights and gave the due options to the accused.
- [10] The accused elected to give evidence. His evidence is that;
- (a) He has been living in Chadwick Road, Nakasi. Since two months prior to the alleged incidence.
  - (b) Prior to that he was living at Kaloa Street, Kinoya at his mother's house.
  - (c) The accused states what the PW1 stated is incorrect and on the said particular date he was at home in Chadwick Road.
  - (d) The witness further states that he has never had a fight with a taxi driver and he has been falsely framed.
  - (e) In cross examination, the Accused concedes that his consent was sought by the police for an identification parade and he refused to consent to such, and he was not forced to take part in an identification parade.
  - (f) The explanation offered by the accused for his refusal is that it was not properly done. Yet he refrains from explaining impropriety of the said identification. The accused further admits that officers at the Valelevu Police Station have treated him fairly.
  - (g) Answering a question by the Court, the witness admits having a relationship with a girl-friend named Tofua Fotofili. He further admits having a child born as a result of the said relationship in 2015.
  - (h) The witness denies any knowledge of Tofua having a relation who is living at close proximity to AOG School in Kinoya.
- [11] The final witness called or the DW2 was Mr. Ilaitia Radravu. He is the father of the accused. His evidence is that;
- (a) He lives in Chadwick road, Nakasi for about 5 years now.
  - (b) Sakeasi (the accused) has been living with him since two months prior to the alleged incident.

- (c) The witness states that on the day of the alleged incident, Sakeasi was at home with him.
- (d) Answering a question by the court the witness states that he is well aware of Sakeasi's girl-friend Tofua, having a relation living near AOG School in Kinoya.

[12] That was a summary of the evidence given in this case. I have outlined above, some of the important and relevant areas of evidence given at this trial. However, I am much familiar with all the evidence lead in this case as I have listened, taken down the entire evidence and have observed the demeanor of the witnesses carefully.

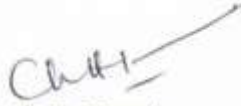
### **Analysis**

[13] The sole witness to the alleged incidence is PW1, Mr. James Mani. When his evidence is considered the defense failed to highlight a single contradiction within his own evidence or with his previous statement to the police. Though the defense highlighted a few omissions, in his statement to the police, in my view they would not create a serious dent to the credibility of his evidence. Further, the alleged omissions do not relate to the vital elements and it would be unfair for us to expect a robbery victim to come out with every minute detail of the incident soon thereafter and the police to record it exactly.

[14] The all-important issue in this case is the identification of the accused. Basically the rest of the ingredients are not contested and there is no reason for me to disbelieve the prosecution version as regards to the rest of the ingredients. The accused relies on an *Ali-bi*. Therefore, we will have to scrutinize the evidence of the PW1 and see whether his evidence is acceptable and reliable in relation to the identification of the accused.

[15] As for the evidence of PW1, he has picked up the accused together with a female passenger (accused's girl-friend) from Lami and they have gone to Kinoya. The accused admits that his girl-friend(ex-partner) lives in Lami and his mother lives in Kinoya. While driving initially for about 45 minutes, the PW1 has seen the accused well. Once the female passenger got down near AOG School, the accused has travelled with him alone and they have been talking. In addition at the place of the incident the PW1 has seen the accused well. They have fought each other for about 5-6 minutes. I have also observed the demeanor of the PW1 carefully. Having considered all the material before me, I am satisfied that PW1's evidence as to the identification of the accused is credible and acceptable.

- [16] The PW1 is a taxi driver. He hasn't had any encounter with the accused until the 18<sup>th</sup> of August 2018. There is no apparent reason for the PW1 to falsely implicate the accused. The DW2 affirmed that the mother of the accused (his ex-wife) on the 19 August, 2018 called and told him that police are looking for the accused. That clearly indicates that police were aware of the identity of the accused soon after the incident. Therefore proposal of the defense that the accused was framed just because he was there in the Valelevu police station on 22 September 2018 will not bear any merit.
- [17] From my point of view, the assessor's opinion was not perverse. It was open for them to reach such a conclusion on the available evidence. Therefore, I endorse and concur with the opinion of the assessors.
- [18] I, having seen and heard the testimonies of the witnesses, am satisfied that evidence of the prosecution presented through the witnesses 1 to 2, is sufficient to establish the elements of robbery beyond any reasonable doubt. The prosecution also established the identity of the accused beyond a reasonable doubt. In these circumstances, I am satisfied without a doubt that the accused has committed the offence of Robbery.
- [17] Therefore, I convict the accused, Sakeasi Radravu to the count of Robbery.
- [18] This is the Judgement of the Court.

  
Chamath S. Morais  
JUDGE



At Suva

This 10<sup>th</sup> Day of July 2019

**cc: Solicitors for the State - Director of Public Prosecutions, Suva**  
**Solicitor for the Accused - Legal Aid Commission**