

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Crim. Case No: HAC 232 of 2019

BETWEEN: STATE

PROSECUTION

A N D: EMOSI ROKOVESU

ACCUSED PERSON

Counsel : Mr. Z. Zunaid for the State
: Ms. N. Mishra for Accused

Date of Sentence : 16th August 2019

SENTENCE

1. Mr. Emosi Rokovesu, you have been charged with others for one count of Aggravated Robbery, contrary to Section 311 (1) (a) of the Crimes Act, which carries the maximum penalty of twenty (20) years imprisonment. The particulars of offence are that:

COUNT 1

Statement of Offence

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

Particulars of Offence

EMOSI ROKOVESU and LEDU TALEMAITOGA and OTHERS on the 15th day of June 2019 at Suva, in the Central Division, in the company of each other robbed **NAVIN BHUGALOO** of 1 x black i-Phone 7 Plus mobile phone, the property of **NAVIN BHUGALOO**.

2. You pleaded guilty for this offence on the 31st of July 2019. 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 for the said offence.
3. According to the summary of fact, which you admitted in open court, the complainant was robbed when he was walking back to his workplace at Suvavou house after meeting his friends in the night of 15th of June 2019. One of your accomplices came and grabbed the mobile phone of the complainant and ran away. You then held the complainant from his back when he tried to chase after that accomplice. Once you held the complainant, another accomplice had punched him.
4. This is a case of robbing an individual, using violence force, while he was at the public road in the early morning of 15th June 2019. Crimes of this nature are prevalent, and have created insecurity and vulnerability in the society. Aggravated robbery is the worst and serious form of property crime in this jurisdiction, which carries a maximum penalty of twenty years imprisonment. Therefore, I find this is a serious offence.
5. In view of the seriousness of this offence, it is my opinion that such offenders must be dealt with severe and harsh punishment. Therefore, the purpose of this sentence is founded on the principle of deterrence and protection of community.
6. Goundar J in State v Vatunicoko [2018] FJHC 885; HAC210.2018 (21 September 2018) found that:

“In assessing the objective seriousness of your offending, I am mindful that aggravated robbery in the company of others is punishable by 20 years’ imprisonment. The tariff depends on the nature and circumstances of the robbery. The tariff is as follows:

- i) Street mugging: 18 months to 5 years’ imprisonment (Raqauqau v State [2008] FJCA 34; AAU0100.2007 (4 August 2008).*
- ii) Home invasion: 8 – 16 years’ imprisonment (Wise v State [2015] FJSC 7; CAV0004.2015 (24 April 2015).*
- iii) A spate of robberies: 10 -16 years’ imprisonment (Nawalu v State [2013] FJSC 11; CAV0012.12 (28 August 2013)*

7. Crimes of this nature have the effect of endangering innocent public and their freedom of life. You and your accomplices have found an opportunity when the complainant was walking back to his workplace on the early morning after meeting his friends. One of the accomplices had grabbed the mobile phone of the complainant and ran away. While the complainant tries to chase him, you held him back and another of your accomplices assaulted him. You have grabbed him from behind using substantial amount of force. Certainly, the impact of this offence on the complainant must be a frustrating experience. The complainant is a foreign national, who is currently working in Fiji. Therefore, I find the level of harm and culpability in this offending are substantially high.
8. You are a 18 years old young first offender. Therefore, you are entitled for a substantial discount for your previous good character.
9. You pleaded guilty to this offence at the first available opportunity. You have admitted your culpability during the police investigation and maintained the same position by pleading guilty to the offence. Hence, you are entitled for a substantive discount for the remorse and repent expressed in your early plea.

10. Having taken into consideration the above discussed factors, I sentence you to a period of three (3) years imprisonment for this offence of Aggravated Robbery as charged.
11. I am mindful of the fact that a sentence does not exceed three (3) years could be suspended pursuant to Section 26 (2) (a) of the Sentencing and Penalties Act. Taking into consideration the seriousness of the this offence, the level of harm and culpability and the purpose of the sentence, I do not find that there is an appropriate grounds for me to suspend this sentence pursuant to Section 26 of the Sentencing and Penalties Act.
12. Having considered the seriousness of this crime, the purpose of this sentence, your age, and opportunities for rehabilitation, I find one (1) year of non-parole period would serve the purpose of this sentence. Hence, you are not eligible for any parole for a period of one (1) year pursuant to Section 18 (1) of the Sentencing and Penalties Act.

Head Sentence


13. Accordingly, I sentence you to a **period of three (3) years imprisonment** for the offence as charged. Moreover, you are not eligible for any parole for a period of **one (1) year** pursuant to Section 18 of the Sentencing and Penalties Act.

Actual Period of Sentence

14. You have been in remand custody for this case for a period of nearly two (2) months as you were not granted bail by the Court. In pursuant of Section 24 of the Sentencing and Penalties Act, I consider the period of two (2) months as a period of imprisonment that have already been served by you.
15. Accordingly, your actual sentencing period is **two (2) years and ten (10) months** of imprisonment period, with **ten (10) months** of non-parole period.

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




R.D.R.I. Rajasinghe
Judge

At Suva

16th August 2019

Solicitors

Office of the Director of Public Prosecutions for the State.

Office of the Legal Aid Commission for the Defence.