

IN THE HIGH COURT OF FIJI AT SUVA

CASE NO: HAC. 63 of 2018
[CRIMINAL JURISDICTION]

STATE

V

- 1. ARTHUR APOROSA VUALIKU**
- 2. GAUNAVOU DELAI**
- 3. RUSIATE ROKOBULOU**

Counsel : Mr. E. Samisoni for the State
Accused in person

Hearing on : 23 November – 01 December 2020

Summing up on : 03 December 2020

Judgment on : 03 December 2020

JUDGMENT

1. The accused is charged with the following offence;

Statement of Offence

Aggravated Robbery: contrary to Section 311(1)(a) of the Crimes Act 2009.

Particulars of Offence

ARTHUR APOROSA VUALIKU, GAUNAVOU DELAI and RUSIATE ROKOBULOU with another on the 24th day of January, 2018 at Nasinu in the Central Division, in the company of each other, robbed **NARAYAN PRASAD** of 1x TFL Switch Board set, 1x TFL handset phone, 1x router internet connection, 12x 300ml cans of Coca Cola, 1x TG silver hard drive, 1x tablet red bag, 1x pinch bar, 1x digital

camera, 1x pair of black safety boots and \$75.00 cash the property of **DIGNIFIED CREMATORIUM.**

2. The first and the second accused had pleaded guilty to the charge and the trial proceeded only against the above named third accused (hereinafter referred to as the “accused”).
3. The assessors have returned with the unanimous opinion that the accused is guilty of the offence as charged.
4. I direct myself in accordance with the summing up delivered to the assessors this date and the evidence adduced during the trial.
5. The prosecution called ten witnesses. The accused gave evidence and called one witness in his defence.
6. The accused did not dispute the fact that the offence of aggravated robbery was committed at the material time and place. His defence was an *alibi*. The prosecution relied on DNA evidence to place the accused at the crime scene at the material time.
7. I did note certain inconsistencies in the evidence given by the police witnesses and the witnesses from the Forensic Biology and DNA Lab. I did not find those as material inconsistencies that would call into question the reliability of the evidence of those witnesses. In my view, the main reason for those inconsistencies to surface was because these official witnesses were required to first give evidence from their memory instead of making them use the official documents they have prepared or they have made relevant entries on, when they gave evidence.


8. I accept the evidence of PW1 and PW2 as credible and reliable. Having considered all the evidence, I find the evidence of the rest of the prosecution witnesses regarding the process and the procedures they followed from uplifting the samples both from the crime scene and from the accused until they were analysed to be credible and reliable. I am satisfied that the final results of the analysis as produced in the report tendered as PE5 is credible and reliable. Thus, in view of the evidence that the probability of DNA profiles extracted from two individuals (who are not twins) by the Forensic Biology and DNA Lab in Fiji, to be the same is one in a million, which evidence I accept, and given that the population in Fiji is less than a million, I am satisfied beyond reasonable doubt that the blood stains found inside the Dignified Crematorium building on 24/01/18 belongs to the accused.

9. In view of the aforementioned evidence and the conclusion, I would reject the *alibi* evidence of the accused and also the evidence of DW2 who was one of the best friends of the accused. Further, I would also dismiss the accused's argument that the fact that steps were not taken to have him medically examined at the time of arrest suggests that he did not have an injury that would explain his blood being found at the crime scene. I note that he was arrested on the 6th day after the incident and on the other hand, there was no indication that the police or anyone had access to his blood to place it at the crime scene on 24/01/18 in the manner as revealed in the evidence in this case.

10. The strong circumstantial evidence in this case leads to the irresistible inference that the accused was one of the four individuals who took part in committing the offence of aggravated robbery on 24/01/18 as charged. Therefore, I am satisfied that the prosecution has proved the case against the accused beyond reasonable doubt.

11. In the circumstances, I would agree with the unanimous opinion of the assessors that the accused is guilty of the above offence as charged. I find the accused guilty of the above offence and hereby convict him accordingly.




Vinsent S. Perera
JUDGE

Solicitors;

Office of the Director of Public Prosecutions for the State
3rd Accused in person