

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

High Court Criminal Case No. HAC 281 of 2019

BETWEEN : STATE

AND : MANASA ROKOTUIVEIKAU

Counsel : Ms Sharma S. for the State
Ms Kean T. for the Accused

Date of Hearing : 23 November 2020

Closing speeches : 24 November 2020

Date of Summing up: 25 November 2020

Date of Judgment : 26 November 2020

JUDGMENT

1. The Accused is charged for one count of aggravated robbery contrary to Section 311(1)(a) of the Crimes Act. The particulars of offence are as follows;

“Manasa Rokotuiveikau on the 14th day of July 2019 at Nasinu, in the Central Division robbed Samuela Vanuarebu of 1 x Samsung J2 mobile phone the property of Samuela Vanuarebu.”

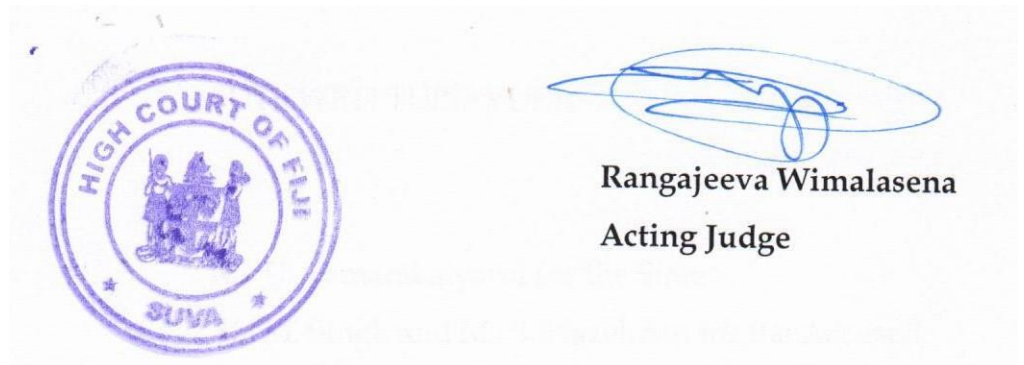
2. This case was taken up for trial on 23 November 2020 and the Prosecution called two witnesses. After the closure of the Prosecution case the Accused gave evidence. During the summing up the assessors were given directions on degree of proof, elements of the offence, how to evaluate evidence and how to assess inconsistencies and omissions, amongst other things.
3. After a short deliberation the assessors returned with a unanimous opinion. They found the Accused guilty to the offence of aggravated robbery.
4. Having directed myself in accordance with the summing up, I concur with the opinions of the assessors. I will now give the reasons for my judgement.
5. The Prosecution case was that on 14 July 2019 the Accused with another person robbed Samuela Vanuarebu of one Samsung J2 mobile phone. However, the Complainant, Samauela Vanuarebu had not recognize the Accused. According to the Prosecution evidence it was the eyewitness, Epeli Vueti who has recognized the two persons who robbed the Complainant. The position of the Accused was that he was elsewhere at the time of the alleged offence and he denied of any knowledge about the incident. Further the Accused denied knowing the Prosecution witness, Epeli Vueti.
6. Therefore, the main issue in this case was the identification of the Accused during the alleged incident. The Prosecution adduced evidence that the place where the alleged incident occurred had sufficient light as it happened close to a streetlamp. Further the Prosecution witness, Epeli gave evidence that he was about 5 meters behind the Complainant when the alleged incident took place. There had not been anything which could obstruct the witness's view. The

Prosecution also adduced evidence to establish that not only Epeli witnessed the alleged incident but he had known the Accused and the other person who allegedly committed the offence for a considerable period of time.

7. The Defence highlighted a number of inconsistencies and omissions in the Prosecution evidence in relation to the statements made to the police by the witnesses. However, I am of the view that those inconsistencies and omissions are so insignificant when the overall evidence is considered in respect of the main issues in this case. Therefore, I decide that those inconsistencies and omissions highlighted by the Defence are not sufficient to render the Prosecution evidence unreliable. Further the witnesses gave reasonable explanations and it appears that the assessors too have accepted those explanations given by the witnesses.
8. I have also observed the demeanour of the witnesses. I am satisfied that the Prosecution witnesses were forthright, reliable and credible. It should be noted that the Prosecution witness, Epeli gave evidence in a very confident manner when the Defence was suggesting that the Accused was not known to him. He reiterated that he had known the Accused prior to the incident. He positively identified the Accused and I have no reason to disbelieve his evidence in respect of identification.
9. I have considered the evidence given by the Accused. Although he said that he was sleeping at home at the time of the alleged incident he could not create any doubt in the Prosecution case. I am not inclined to accept the evidence given by the Accused.
10. I am satisfied that the Prosecution adduced sufficient evidence to prove all the elements of the offence of Aggravated Robbery. The Defence could not challenge the credibility of the Prosecution witnesses or to create a doubt in the Prosecution case.

11. In the circumstances I have no reason to disagree with the unanimous opinion of the assessors. I decide that the Prosecution proved the charge against the Accused beyond reasonable doubt.

12. Accordingly, I find the Accused guilty to the offence of Aggravated Robbery and convict him as charged.



At Suva

26 November 2020

Solicitors

Office of the Director of Public Prosecutions for the State

Office of Legal Aid Commission for the Accused