

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

CRIMINAL CASE NO. HAC 009 OF 2020

BETWEEN : **STATE**

AND : **ALESIVERE LETEMANI**

Counsel : ***Mr. A. Kumar for the State***
Ms. A. Bilivalu for the Accused

Hearing on : ***23rd November 2020***
Sentence : ***08th December 2020***

SENTENCE

1. Ms. Alesivere Letemani, you were charged as follows;

COUNT 1

Statement of Offence

ARSON: Contrary to section 362 (a) of the Crimes Act of 2009.

Particulars of Offence

Alesivere Letemani, on the 23rd day of November 2019 at Namada, Ba, in the Western Division, wilfully and unlawfully set fire to the dwelling house of Moses Nadrodro.

2. Alesivere Letemani, you have freely and voluntarily pleaded guilty to the above count of Arson on 07th of July 2020, at the very first opportunity. I am

satisfied and convinced that you have pleaded so, unequivocally and having understood the consequences of such a plea.

3. Thereafter, on the 26th of October 2020, the State read over the Summary of Facts and the said Summary of Facts were well considered by you and your counsel beforehand. You having understood, agreed and accepted the said summary of facts to be true and correct and have taken full responsibility for your actions.
4. The Summary of Facts filed by the State discloses that:

Accused 1 [A1]

A1 in this matter is one, Alesivere Letemani, 24 years old, Domestic Duties of Namada, Ba.

Complainant [PW1]

The complainant in this matter is one, Mosese Nadrodro, 48 years old, Farmer of Veisaru, Ba.

- 1) The accused person is charged with the offence of "Arson" contrary to section 362 (a) of the Crimes Act, 2009.
- 2) Plea was taken on 6th July 2020 and the accused pleaded guilty to the offence of Arson as charged.
- 3) Briefly on 23rd November 2019, the accused willfully and unlawfully set fire to the dwelling house of the complainant which is situated in Namada, Ba.
- 4) According to the complainant, on the day of incident, he went with the accused to pick his son from Natunuku.
- 5) The accused told the complainant that she came to pick her clothes after which she would be going to Nadi.

- 6) The complainant told the accused that his son does not want her to go to Nadi and tried to calm her down. After this the complainant left to sign the bail at the police station.
 - 7) While at the police station the accused texted the complainant stating for him to go home with swears. The complainant proceeded to his home and noticed that the accused's belongings were outside the house.
 - 8) The complainant proceeded to his sister's place to have breakfast and when he returned, he noticed that his house was partly burnt. He stated that the curtains, mattress with the floor was partly burnt.
 - 9) The complainant noticed that the accused was missing from the house after which he lodged a formal complaint against the accused.
 - 10) The accused in her caution interview stated that she burned the mattress using the stove and waited outside the house. When she (accused) noticed that the fire had gone out, she deliberately burnt another mattress and went to town (Q & A 25-36). A copy of the caution interview is attached herewith and marked "A".
 - 11) During the course of fire the carpet, rugs, table, 2 mattresses and clothing were damaged inside the house.
 - 12) An investigation was done by Tevita Boginisoko of National Fire Authority and a report was prepared to the effect. A copy of the report is attached herewith and marked "B".
5. I find that the above summary of facts support all elements of the charge in the Information, and find the charge proved on the Summary of Facts agreed by you. Accordingly, I find you guilty on your own plea and I convict you of the count of Arson contrary to section 362 (a) of the Crimes Act 2009, as charged.

6. The maximum sentence for the offence of arson contrary to section 362 of the Crimes Act 2009 is an imprisonment for life.
7. The tariff for the offence of Arson is an imprisonment term between 5 to 12 years as set out in the case of **Nakato v State**, [2018] FJCA 129; AAU74.2014 (24 August 2018).
8. I do not see any aggravating factors as the house she was occupying was set on fire and only some belongings were damaged.
9. The mitigation factors are that the accused was less than 23 years old at that time and also said to have compensated for the caused damage. In addition she has pleaded guilty at the very first opportunity showing her remorse.
10. In adopting the guidelines provided by **Nakato v State** (Supra) and **Koroivuki v State** [2013] FJCA 15; AAU0018.2010 (5 March 2013) and the objective seriousness of the offense, I select the 05 years of imprisonment as the starting point of your sentence.
11. In consideration of the factors set out in mitigation I will deduct 1 year and now your sentence would be 04 years of imprisonment. Furthermore, you will be entitled to a discount of 1/3 due to your plea of guilty at the first opportunity. Therefore your final sentence is 02 years and 08 months of imprisonment. In consideration of all the material and circumstances of this case, I set the non-parole period at 1 year and 10 months.
12. You have been arrested on the 07th of January 2020 and were granted bail on the 08th of January 2020. Therefore, that will not be discounted.
13. Now I will consider the provisions of section 26(1) of the Sentencing and Penalties Act. You are first time offender and therefore it is nothing but fair to suspend the term of imprisonment. Accordingly, your term of

imprisonment of 2 years and 08 months will be suspended for a period of 04 years.

14. Consequences of a suspended term will be explained to you by the Court clerks.
15. You will have thirty (30) days to appeal to the Court of Appeal, if you so desire.


Chamath S. Morais
JUDGE



On this 08th day of December 2020.

Solicitors : **Office of the Director of Public Prosecutions for the State.**
Legal Aid Commission, Suva for the Accused.